

CITY OF BANKS

**DEVELOPMENT CODE CONCEPTS
TO UPDATE THE BANKS ZONING CODE**

FINAL

JUNE 11, 2019



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1. INTRODUCTION AND OVERVIEW

Purpose and Scope of Code Audit

SPS has been directed to prepare an assessment of the City of Banks Zoning and Development Code with intent of creating a new development code that is easy to use, implements recently adopted bicycle, pedestrian, and urban design plans, as well as providing a full range of housing types and options. The City believes the current development code does not achieve the policy directives outlined in the plans, which call for preserving and enhancing the small town charm of Banks while providing needed housing and economic development opportunities. Code amendments must be consistent with the City's Comprehensive Plan and comply with applicable state statutes and administrative rules per Senate Bill 1051 (2017).

The City of Banks expanded its Urban Growth Boundary (UGB) in 2011, adding 400 (+/-) acres of land. There has not been significant development to date and thus has had few opportunities to "test" components of the City's ordinances. However, the City has approved several large annexations totaling 232 acres in the past few years. One annexation in particular expands the downtown core of Banks, a highly unique situation as most annexations are on the periphery of most cities. The City anticipates large development applications to be submitted for subdivision and site plan approval in the near future. Therefore, the City is pursuing a code rewrite to ensure the City is well positioned to require development is of the highest quality possible, while preserving the small town atmosphere that makes Banks so special.

2. CODE AUDIT RECOMMENDATIONS

General recommendations that emerged from the code audit across the Banks Comprehensive Plan, the Vision 2037 Plan, the recent economic development studies and the Banks Zoning Code include:

- Prepare a new code structure. The code in its present format is very difficult to use and administer. Regulations are spread in different sections and could be assembled into one "code." In addition, tables are recommended throughout for ease of use. The existing development code is made up of provisions from the 2012 version of the "TGM Model Development Code for Small Cities" as well as existing sections not updated in many years.
- Develop a comprehensive site plan review process in the development code for residential projects. The City needs a site plan review process that is consistent with Oregon Revised Statutes (ORS) 197.307(4). This statute requires cities create site plan review criteria as they apply to "housing, included needed housing" to comply with the requirements for clear and objective code standards and the new provisions in ORS 197.303, 197.307, and 227.175. This also creates new provisions for an alternative approval process for residential development with criteria that are not clear and objective, consistent with ORS 196.307(6). *Needed housing*, pursuant to ORS 197.303 (as amended by SB 1051), includes single-family detached dwellings, accessory dwelling units on lots containing single family detached dwellings, single-family attached dwellings, manufactured dwellings (standalone and in parks), government-assisted housing, and farmworker dwellings. Needed housing can also be understood to include any housing needs and types identified in a comprehensive plan.
- Provide a two track system for review of housing projects. Land use reviews in Banks range from a Type I review to a Type III process, each with an increasingly level of uncertainty, time and cost. Multi-family projects are currently required to go through Design Review, a discretionary review. A Type

I or Type II option through a simple land use process for as many projects as possible would reduce uncertainty and delay. One track of review would be for simpler projects meeting clear and objective standards, meaning, specific design requirements with numeric values would be applied to the application in a way that requires no interpretation. The other track of review, a discretionary review track, would be for projects that could meet the purpose of the code section, rather than the specific standard. The burden of proof is on the applicant in the discretionary track to make a case to a decision-maker.

- Tied in with the residential site plan review process update is the need to provide a full range of housing types in the development code. As housing prices go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon’s population continues to expand, the supply of housing has not kept up. Banks has a documented need for more multi-family and smaller housing opportunities. Banks also has a documented need for large lot single family units and desires to provide the full range of housing options. To meet this need, it is suggested that Banks expand permitted housing types within all residential districts, appropriately scaled for each zone. In each residential district, consider incorporating appropriately scaled “missing middle” housing such as corner duplexes with design standards, internal conversions or existing large homes and accessory dwelling units. In the lowest density zones, consider allowing larger lot single family units consistent with the documented needs analysis provided by EcoNW (2016). For medium density zones, consider allowing townhomes, multi-plexes and courtyard housing options. In the higher density zones, include a full range of residential housing types up to multi-family apartments. Increased variety of housing types and densities can introduce a variety of more affordable options.
- There are five residential zones in Banks and perhaps too many for a city of this size. Even with five residential zones, there is still a lack of a full range of housing options. For instance, the residential zones do not provide for small lot single family detached units, nor does it provide for small lot single family common wall units. Duplex lot minimum standard of 9,000 square feet is outdated and not relevant to today’s housing market. Furthermore, the development standards for each residential zone do not accommodate the wide variety of development
- Update the definitions section of the code to include new housing types and clarify existing types.
- Develop design standards for housing, based on local priorities and concerns. The Vision 2037 Plan provides good direction. Consolidate residential design standards and organize around each residential district. Existing standards are located throughout the code and overlapping regulations can complicate the review process. Each residential type should have a set of standards in each zone.
- Simplify residential dimensional standards and tailor to address desired development types in each zoning district.
- Review parking standards to ensure efficient use and provision of parking as well as implementation of the TGM Parking Outreach Study concepts. Access management standards and driveway standards also need review and update to ensure sufficient spacing and coordination with pedestrian and bicycle safety.
- Remove engineering standards in the Development Code that apply to public rights-of way. Details for streets and right-of-way improvements should be located in the public works design standards.
- Create design standards for commercial and industrial uses, customized based on local priorities and concerns. The Vision 2037 plan provides solid guidance for considerations and suggests standards addressing the following:

- Building placement and orientation
 - Building heights that work with the Uniform Building Code
 - Storefront building design
 - Streetscapes and civic spaces
 - Pedestrian access and circulation (on-site)
 - Vehicle access and circulation
 - Parking
 - Landscaping
 - Art
- Currently the zoning code is lacking any design standards (except for base zoning requirements) for commercial development and relies on staff to guide applicants to meet the guidelines in adopted plans. The code should anticipate not only new development and direct the form and style of downtown development over time, but should also be conducive to small projects, including improvements to existing buildings and developments.
 - Special use standards are needed in the code. These are deemed “special” due to their effect on surrounding properties and must be developed in accordance with special conditions and standards. These standards should address drive through uses, bed and breakfasts, residential care facilities, to name a few.
 - Businesses catering specifically to automobiles, including automobile service stations, automotive repair and service, auto sales, and auto parts sales, should be carefully considered in the downtown core. The code should contain site design review standards addressing auto-serving uses, both to address pre-existing conditions and to discourage the establishment of new automobile-oriented uses in the north end core.
 - Banks contains several important historic structures that were identified by stakeholders as the preferred “building blocks” for design standards along NW Main Street. City Hall, smaller vernacular buildings and others provide an eclectic mix of building forms, scales, styles, and rhythm that define downtown Banks. Any design code for the downtown core should consider drawing upon the architectural language of these historic buildings. A key policy issue is whether the code should emphasize a literal interpretation of historic styles, or provide for flexibility for contemporary interpretations. In any event, design standards should not stifle creativity or discourage building rehabilitation and reuse. Individual businesses and property owners should be encouraged to improve their buildings, so that each contributes to the downtown community. New design standards could provide for guidance, contributing to a better streetscape.
 - Language is needed in the code requiring neighborhood contact prior to land use submittals. Banks does not have any formal neighborhood associations (the Arbor Village Homeowners Association is different from a City recognized neighborhood association). Neighborhood contact is intended to help applicants and residents work through potential design issues before the city begins processing a land use application and is subject to the 120-day clock. Notification requirements should address radius, notice contents, meeting location, meeting conduct and submittal requirements.
 - Create a code that is supportive of businesses and economic development opportunities in Banks. Banks is an important waypoint and destination for cyclists and walkers. It is the eastern terminus of the Salmonberry Trail, located at the Banks-Vernonia Trailhead (the first “rails to trails” state park in Oregon) and is well positioned to benefit from tourism due to its fortunate location at the cross-roads of

significant bike trails and wineries. Annual day-use attendance of the trail is over 37,000 users. A Competitive Analysis was prepared by Leland Consulting in 2018 and identifies a need for a focus of restaurants in one area of existing buildings on NW Main Street, near the trail head, to capture tourism. A “foodie district” at the north end of NW Main Street is identified as a recommended action in the report as it could attract a significant number of trail users, as identified in the report.

- Tree removal and mitigation standards are missing from the code. Consider adding a section with specific measurable preservation requirements.
- Existing land use review procedures have been identified by stakeholders as problematic. Establish standard decision-making procedures that enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

Policy Direction

The City has completed a number of planning efforts in the past few years that provide solid policy direction for the code work. The following adopted plans and reports provide the “blueprint” for future development in Banks:

- The Vision 2037 Plan (adopted 2017) provides the overall vision for the City of Banks. This plan describes a vibrant, well-designed small town with a pedestrian friendly downtown, bicycle paths and connections linking all areas of the City.
- The Banks Bicycle and Pedestrian Plan (TGM Adopted 2014) provides guidance for bicycle and pedestrian facilities.
- The Banks Parking Plan Outreach Project (TGM Adopted 2013) provides initial strategies for more efficient parking.
- The Banks Economic Development Plan Strategy (adopted 2017) will help guide and foster economic growth in the City, utilizing the Banks-Vernonia trailhead as the most important tourism asset.
- A Competitive Analysis prepared by Leland Consulting in 2018.
- The Banks Urban Renewal Plan (adopted 2017), will assist in the revitalization of downtown Banks.
- A Large Lot Housing Analysis prepared by EcoNW, which provides analysis and findings that describe the need for single-family housing on lots larger than 10,000 square feet, which is referred to as need for large-lot single-family housing. The analysis proposes changes to the City’s policies so that the City can meet this housing need within the existing UGB through increasing the efficiency of land use within other residential areas of the UGB.

3. ABOUT THIS REPORT

This report is considered Phase 1 of a code rewrite project. It takes a look at the development code through the lens of adopted policy and guidelines. As part of Phase 1 of the code rewrite, staff reached out to stakeholders to solicit input on identifying key issues to be addressed with the code rewrite work. Outreach

included in person sessions, phone calls and online survey. The questions posed to the stakeholder group included what is working regarding development in the City, what their code experiences have been and other topics not addressed in the code. Stakeholder included residents, housing developers, housing builders, design professionals and legal advisors. Staff received a range of responses with topics ranging over a broad spectrum of issues with diverse and at times contradicting concerns. Some issues were outside the scope of the code rewrite and other may merit further study.

Next steps of the audit include review of the findings with the Planning Commission, general public and City Council. The City of Banks anticipates funding from the Code Assistance Program (DLCD) available in July 2019, which will begin Phase 2 of the code work, the actual code writing phase.

A NOTE TO REVIEWERS

This draft code audit includes commentary (text boxes) in-line with the existing code to aid reviewers. In order to keep the context of the code, this document contains the entire Banks Zoning Code Chapters 151, Zoning Code and 152 Land Divisions.

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GENERAL PROVISIONS

Comment: The organization of the zoning code is problematic and difficult to follow. The new code should have a hierarchy with chapter, section and subsection as shown in the example below. Purpose statements should be included in each chapter as they help guide the intent of each chapter.

Code Hierarchy Example

CHAPTERS:

Chapter 1.1 — Introduction

Chapter 1.2 — Title, Purpose, and Authority

1.2.010 Title

1.2.020 Purpose

1.2.030 Compliance and Scope

1.2.040 Rules of Code Construction

1.2.050 Development Code Consistency with Comprehensive Plan and Laws

1.2.060 Development Code and Zoning Map Implementation

1.2.070 [*Zoning Checklists and*] Coordination of Building Permits

1.2.080 Official Action

Chapter 1.3 — Lot of Record and Legal Lot Determination 8

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Chapter 1.4 — Non-Conforming Situations

1.4.010 Purpose and Applicability

1.4.020 Non-conforming Use

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1.4.040 Non-conforming Lot

Chapter 1.5 — Code Interpretations

1.5.010 Code Interpretations

Chapter 1.6 — Enforcement

1.6.010 Violations

1.6.020 Other Remedies

§ 151.001 TITLE.

This chapter shall be known as the City of Banks Zoning Ordinance.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.002 PURPOSES.

The several purposes of this chapter are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open space for light and air; to lessen the congestion on streets; to give an orderly growth to the city; to prevent undue concentrations of population; to facilitate adequate provisions for community utilities and facilities such as water, sewage, electrical distribution systems, transportation, schools, parks, and other public requirements; and in general to promote public health, safety, convenience, and general welfare.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

Comment: Consider if the purpose statement in 151.002 is relevant today. It was last updated in 1989. Consider if other purpose statements should be added to address preserving the small town livability in Banks.

§ 151.003 DEFINITIONS.

Comment: The definition section should be updated and expanded to include definitions currently missing from the code. Consider paying close attention to housing types and including specific definitions. Building height measurements need to be updated, as well as how density is defined.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESS. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

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. Accessory structures are of secondary importance or function on the site, and are generally smaller than and detached from the primary structure.

ALLEY. A street which affords only a secondary means of access to property.

AUTOMOBILE SERVICE STATIONS. A business providing direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. Includes gas stations, car washes, and quick lubrication services. Accessory uses may include minor auto repair and tire sales.

BUILDING. A permanent structure but not a mobile home built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind and having a fixed base on or fixed connection to the ground.

DAYCARE FACILITY. Institution serving more than 5 children or adults who need daytime care.

DWELLING, 2-FAMILY (DUPLEX). A detached building containing 2 dwelling units and designed for occupancy by 2 families.

DWELLING, MULTI-FAMILY. A building or portion thereof, designed for occupancy by 3 or

more families living independently of each other.

DWELLING, SINGLE-FAMILY. A detached building containing 1 dwelling unit and designed for occupancy by 1 family only.

DWELLING UNIT. One or more rooms in a building that are designed for occupancy by 1 family and that have not more than 1 cooking facility, but not a mobile home.

FAMILY. An individual or 2 or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as 1 housekeeping unit using 1 kitchen and providing meals or lodging to not more than 2 additional persons, excluding servants; or a group of not more than 5 unrelated persons living together as 1 housekeeping unit using 1 kitchen.

FRONTAGE. All of the property fronting on 1 side of a street that is between intersecting or intercepting streets, or between a street and a water feature or end of a dead-end street.

GRADE, GROUND LEVEL. The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within 5 feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

HAZARDOUS MATERIALS. Substances, which are capable of posing a severe risk to health, safety, or property. The hazard potential of a substance depends on its inherent dangerousness, on the quantity of the material at a site, on how it is stored and how it is used.

HAZARDOUS MATERIALS are defined by the U.S. Department of Transportation in 49 C.F.R. pt. 100 through 177. They include explosives, poisons, corrosives, flammables, combustibles, and the like. Consumer commodities of hazardous materials are packaged and distributed in a form intended or suitable for sale through retail outlets or consumption by individuals for purposes of personal care or household use.

HEIGHT OF BUILDING. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points of other types of roofs.

HOME OCCUPATION. An occupation or profession carried on by a member or members of the family residing on the premises, which is accessory and subordinate to the primary residential use of the property.

LEVEL OF SERVICE. A measure of traffic conditions at intersections ranging from A (free flow) through F (severe congestion) expressed as a traffic volume to street capacity ratio.

LIVESTOCK. Domestic animals of types customarily raised or kept on farms for profit or other purposes.

LOT. A parcel or tract of land.

LOT AREA. The total horizontal area within the lot lines of a lot exclusive of streets and easements of access to other property.

LOT, CORNER. A lot abutting on 2 or more streets other than an alley, at their intersection.

LOT LINE. The property line bounding a lot.

LOT LINE, FRONT. The lot line separating the lot from the street other than an alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.

LOT LINE, REAR. The lot line, which is opposite and most distant from the front lot line. In the case of an irregularly shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line not a front or rear lot line.

LOT WIDTH. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

MANUFACTURED HOME. A structure constructed for movement on the public highways, which is designed for use as a permanent residence, but not designed and built to the specifications of the state or county building code for conventional structures in effect at the time of its construction.

(Am. Ord. passed 8-13-1996)

MANUFACTURED HOME PARK. A place where 2 or more manufactured homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of the person.

(Am. Ord. passed 8-13-1996)

NONCONFORMING STRUCTURE OR USE. A lawful existing structure or 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.

OWNER. An owner of property or the authorized agent of an owner.

PERSON. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

PLANNED UNIT DEVELOPMENT. A development constructed on a tract of land of at least 5 acres, planned and developed as an integral unit. The final site development plan functions as a substitute for the site development regulations of the underlying zoning district.

RESIDENTIAL HOME. A residence for 5 or fewer unrelated physically or mentally disabled persons and staff persons, who need not be related to each other or to any other home resident.

SIGN. An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business.

STREET. A public right-of-way for vehicular and pedestrian traffic.

STRUCTURAL ALTERATION. A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

STRUCTURE. Something constructed or built, or a piece of work artificially built up or composed of parts joined together in some definite manner.

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

VEHICULAR TYPES.

(1) **MOTOR VEHICLE.** Vehicles that have their own motive power and are used for the transportation of people or goods. **MOTOR VEHICLES** include motorcycles, passenger vehicles, trucks, and some types of recreational vehicles.

(2) **PASSENGER VEHICLE.** A motor vehicle designed to carry 10 persons or less including the driver. **PASSENGER VEHICLES** include cars, minivans, passenger vans, and jeeps.

(3) **RECREATIONAL VEHICLE.** A vehicle with or without motive power, which is

designed for sport or recreational use, or which is designed for human occupancy on an intermittent basis. **RECREATIONAL VEHICLES** include campers, motor homes, vacation trailers, off-road vehicles, dune buggies, and recreational boats.

(4) **TRUCK.** A motor vehicle which is designed primarily for movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than 10 persons. **TRUCK** includes vehicles commonly called trucks, pick-ups, delivery vans, buses, and other similar vehicles.

(5) **LIGHT TRUCK.** Light trucks are trucks up to 9,999 lbs. gross weight (gvw). **LIGHT TRUCKS** include Class 1 and 2 of the U.S. Truck Classification System. This group generally includes pickups and delivery vans.

(6) **MEDIUM TRUCK.** Medium trucks are trucks from 10,000 lbs. to 19,499 lbs. gvw. **MEDIUM TRUCKS** include Class 3 through 5 of the U.S. Truck Classification System. This group generally includes step-in vans, minibuses, and some light delivery trucks.

(7) **HEAVY TRUCK.** Heavy trucks are trucks over 19,500 lbs. gvw. **HEAVY TRUCKS** include Class 6 through 8 of the U.S. Truck Classification System. This group generally includes larger delivery trucks, tractor-trailers, and heavy specialty vehicles such as cement mixers and sanitation compactors.

(8) **UTILITY TRAILER.** A vehicle designed to be pulled by a motor vehicle, which is used to carry property, trash or special equipment. Includes boat trailers.

VEHICLE AND FARM EQUIPMENT REPAIR. Firm servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles, as well as farm equipment under 19,500 pounds gross vehicle weight. Services may include repairs, painting, upholstery, and bodywork.

VISION CLEARANCE AREA. A triangular area of a corner lot at the intersection of 2 front lot lines, and through which it is necessary to retain vision clearance in the interest of public safety. The 2 legs of the triangle are of equal length and coincide with the 2 front lot lines. The apex is located at the intersection of the front lot lines, extended if necessary. The base of the triangle extends diagonally across the corner of the lot intersecting the 2 legs an equal distance from the apex. The size of the triangle and other requirements are specified in § 151.065.

YARD. An open space on a lot, which is unobstructed from the ground upward except as, otherwise provided in this chapter.

YARD, FRONT. A yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of a building or other structure.

YARD, REAR. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building or other structure.

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 or other structure.

YARD, STREET SIDE. A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.004 HIGHEST STANDARD APPLIES.

Where a provision of this chapter conflicts with another chapter or ordinance, the provision or requirements that are more restrictive shall govern.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2014-05-01, passed 5-13-2014)

§ 151.005 CODE INTERPRETATIONS.

Some terms or phrases within this Code may have 2 or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

(A) *Authorization of similar uses.* Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the Planning Commission may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the Planning Commission finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of city officials shall be processed following the procedures in § 151.006.

(B) *Code interpretation procedure.* Requests for a code interpretations, including but not limited to similar use determinations, shall be made in writing to the Planning Official and shall be processed as follows:

(1) The Planning Official within 14 days of the inquiry shall advise the person making the inquiry in writing as to when the Planning Commission will make a formal interpretation.

(2) Where an interpretation requires discretion, the Planning Official shall inform the person making the request that Planning Commission review is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request and the city fee for quasi-judicial review. The Planning Commission then shall review relevant background information, including but not limited to other relevant Code sections and previous city land use decisions, and follow the quasi judicial review and public hearing decision making procedures in § 151.200.

(C) *Referral to City Council.* Where a code interpretation may have significant citywide policy implications, the Planning Commission may bypass the procedure in § 151.190 and refer the request directly to the City Council for its legislative review in a public hearing; such public hearings shall be conducted following the procedure of § 151.200.

(D) *Written interpretation.* Following the city decision on a code interpretation application, the Planning Official shall mail or deliver the city's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony, as applicable. The decision shall become effective when the appeal period for the decision expires.

(E) *Interpretations on file.* The city shall keep on file a record of its code interpretations.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2014-05-01, passed 5-13-2014) Penalty, see § 151.999

§ 151.006 LOT OF RECORD AND LEGAL LOT DETERMINATION.

The Planning Official, through an Administrative land use decision procedure, shall process requests to validate a lot of record. The Planning Official may request the matter be heard by the Planning Commission in a quasi judicial hearing. A property owner may request the city deem a lot or parcel a "lot of record." The City Planning Official shall find that a lot of record exists when a lot or parcel was created by a lawful sales contract or deed and is of record prior to the effective date of this Code. Two or more such lots or parcels which are contiguous and under identical ownership of record on the effective date of this Code shall be deemed separate lots of record only if the creation of the lot(s) or parcel(s) was approved by the city or Washington County under applicable partition or subdivision regulations. A lot of record determination does not authorize a use or development that does not comply with other provisions of this Code. Appeals are made to the City Council and subsequently to the Land Use Board of Appeals. (Ord. 2014-05-01, passed 5-13-2014)

§ 151.007 ENFORCEMENT.

Any violation of this chapter or a provision of any permit or land use decision approved under the authority of this chapter is a civil infraction and a nuisance, enforceable under the provisions of Chapter 37, Civil Enforcement, and any other lawful remedy or procedure, including a suit for declaratory and injunctive relief in Circuit Court. The city is entitled to recover its reasonable enforcement costs expended in any such enforcement action to applicable fines and penalties. (Ord. 2014-05-01, passed 5-13-2014)

ESTABLISHMENT OF DISTRICTS AND SUB-DISTRICTS

Comment: This is the heart of the zoning code and should be reviewed for consistency with the Comprehensive Plan and re-organized for clarity.

§ 151.020 DISTRICTS.

All lands, tracts, and area within the corporate limits of the City of Banks are hereby included within 1 of the following described land use zoning districts. The uses of each tract within the corporate limits of the city shall be limited to those permitted in the zoning classification district within which the tract or lands are situated.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.021 SUB-DISTRICTS.

A sub-district is an overlay district, which may be combined with any major classification district and zone. The regulations of a sub-district shall be supplementary to the regulations of the underlying district and zone, and the regulations of the sub-district and the underlying district and zone shall all apply.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.022 ZONING CLASSIFICATION DISTRICTS AND SUB-DISTRICTS.

The city is divided into the following zoning classification districts and sub-districts, with applicable abbreviated designation/suffix:

<i>Districts</i>	<i>Abbreviated Designation</i>
Low Density Single-Family	LDSF
Single-Family Residential	R5
High Density Single-Family	HDSF
Multi-Family Residential	R2.5
High Density Multi-Family	HDMF
Mixed Use	MU
Community Facilities	CF
General Commercial	C
General Industrial	I

<i>Sub-Districts</i>	<i>Suffix</i>
Planned Unit Development	PD
Historic Resource Overlay	H

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2013-06-01, passed 6-11-2013)

§ 151.023 LOCATION OF DISTRICTS AND SUB-DISTRICTS.

(A) The boundaries for the districts and sub-districts listed in this chapter are indicated on the City of Banks Zoning Map, which is hereby adopted by reference. The boundaries shall be modified in accordance with the provisions of this chapter.

(B) The boundaries, legends, symbols, rotations, and references of each of the zoning classification districts as depicted on the City of Banks Zoning Map are hereby adopted by reference.

(C) Unless otherwise specified, district and sub-district boundaries are section lines; subdivision lines; lot lines; centerlines of street or railroad right-of-way; or the lines extended.

(D) Where the exterior boundary of any zoning classification district and sub-districts conforms to the corporate boundary of the city, the city boundary shall likewise be depicted on the City of Banks Zoning Map.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.024 ZONING MAP.

(A) The City of Banks Zoning Map is hereto attached and by this reference made a part hereof, bearing the signatures of the Mayor and City Recorder of the City of Banks, and entitled City of Banks Zoning Map dated with the effective date of this chapter, it shall be maintained on file at all times in the office of the City Recorder.

(B) Whenever authorized map changes have accumulated, the City Council shall have prepared a revised Zoning Map depicting all changes authorized after the original map was adopted.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.025 ZONING OF ANNEXED AREAS.

Comment: This section, last updated in 1989, needs to be revised consistent with relevant ORS statues. References to the Portland Metropolitan Area Boundary Commission need to be removed because they no longer exist.

(A) Zoning regulations applicable to an area prior to annexation to the city shall continue to apply and shall be enforced by the city until a zone change for the area has been adopted by the City Council. The city may, in an ordinance annexing property to the city or ratifying annexation action of the Portland Metropolitan Area Boundary Commission, conduct. The proceedings as may be necessary to conform the zoning and land uses of the property to the requirements of the city's zoning code and comprehensive plan.

(B) The Council may also by ordinance place the property or any part thereof in a zoning classification hereunder, provided the resolutions, ordinance, and notices required to be given in the annexation proceedings include a declaration of the city's intention to place the annexed property or the part thereof in the zoning classification.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

USE ZONES

§ 151.040 PERMITTED LAND USES IN RESIDENTIAL ZONING DISTRICTS.

Comment: Even with five different residential zones, Banks does not provide for a full range of housing variety and options, which in turn, does not provide for a variety of affordable options. Consider expanding the permitted use lists for residential development and include new housing types currently not provided. In each residential district, consider incorporating appropriately scaled “scaled “missing middle” housing such as corner duplexes, internal conversions of existing homes, and accessory dwelling units. For medium density zones, consider allowing townhomes, multi-plexes and courtyard housing options. In the high density zone, include a full range of residential units up to multi-family apartments. Increased variety of housing types and densities can introduce a variety of more affordable options.

Also consider adding provisions for large estate lot single family residential because recent studies show there is an unmet need in Banks for lots 10,000 sq. ft and greater. Currently the largest zoning district is R-5.

Banks is currently out of compliance with statewide planning laws pertaining to land use reviews of “needed housing.” State law requires a simple land use review for housing projects meeting clear and objective zoning criteria. Banks does not have such a review process and leaves the City open to legal challenges.

Land use reviews for housing in Banks range from a Type I review to a Type III process, each with an increasingly level of uncertainty, time and cost. Multi-family projects are currently required to go through Site Plan Review, a discretionary review. We strongly suggest Banks provide a two track system for review of housing projects. One track of review would be for simpler projects meeting clear and objective standards, meaning, specific design requirements with numeric values would be applied to the application in a way that requires no interpretation. The other track of review, a discretionary review track, would be for projects that could meet the purpose of the code section, rather than the specific standard. The burden of proof is on the applicant in the discretionary track to make a case to a decision-maker.

The intent and purpose of each residential zoning district is described as follows:

(A) Low Density Single-Family (LDSF) District is intended to provide single-family detached dwellings in a low density residential environment.

Comment: Consider incorporating large lot single family lots in this zone as an overlay. This overlay should equate to a land area equivalent to the findings in the large lot land needs report prepared by EcoNW. Banks has a documented unmet need for lots ranging from 10,000 square feet to 15,000 square feet. Also consider “missing middle” housing appropriately scaled that would allow for corner duplexes with special design standards, internal conversions of existing homes, and accessory dwelling units.

(B) Single-Family Residential (R5) District is intended to provide single-family detached dwellings in a medium density residential environment.

Comment: This zoning district makes up the majority of existing residential development in Banks. In the medium density residential R-5 zone, consider allowing townhomes, triplexes, fourplexes and courtyard housing. Increased variety of housing options in this zone can introduce more affordable options than exist today. Clear and objective design standards should be considered to ensure appropriate scale and design in existing neighborhoods. Consolidate residential design standards and organize around each zoning district. Provide a two-track system for review of housing projects consistent with ORS requirements.

(C) High Density Single-Family (HDSF) District is intended to provide single-family attached dwellings in a higher density residential environment.

Comment: Consider combining some of these higher residential density zones and permitting the full range of residential uses. The code is difficult to use with so many residential zoning districts. Clear and objective design standards should be considered to ensure appropriate scale and design in existing neighborhoods. Consolidate residential design standards and organize around each zoning district. Provide a two-track system for review of housing projects consistent with ORS requirements. Stakeholder interviews revealed that the residential districts are overly restrictive and do not provide for a full range of housing types that are currently desired by developers and their customers.

(D) Multi-Family Residential (R2.5) District is intended to provide multi-family dwellings in a medium density residential environment.

Comment: Same as the HDSF zone, consider combining some of these higher residential density zones and permitting the full range of residential uses. The code is difficult to use with so many residential zoning districts. Clear and objective design standards should be considered to ensure appropriate scale and design in existing neighborhoods. Consolidate residential design standards and organize around each zoning district. Provide a two-track system for review of housing projects consistent with ORS requirements.

(E) High Density Multi-Family (HDMF) District is intended to provide multi-family dwellings in a higher density residential environment.

Comment: In the HDMF zone, consider allowing the full range of residential units up to multi-family apartments. Clear and objective design standards should be considered to ensure appropriate scale and design in existing neighborhoods. Consolidate residential design standards and organize around each zoning district. Provide a two-track system for review of housing projects consistent with ORS requirements. Stakeholder interviews revealed that the residential districts are overly restrictive and do not provide for a full range of housing types that are currently desired by developers and their customers.

(F) Mixed-Use (MU) District is intended to provide a mix of medium density residential uses

together with small to medium scale retail and service commercial plus civil uses that emphasize a pedestrian environment.

Comment: This zone should be revisited to see if the current standards are producing desired outcomes. Stakeholder interviews revealed that the mixed use zone is overly restrictive, for example, requiring ground floors to have retail uses only.

(G) The land uses listed in Table 151.040-A are permitted in the residential zoning districts as shown, subject to the provisions of this chapter. Only land uses which are specifically listed in Table 151.040-A, and land uses which are approved as “similar” to those listed in this table may be permitted. Land uses identified as “sub-district” are subject to the provisions of § 151.021. Land uses designated with a “CU” require conditional use approval prior to development or a change in use, accordance with §§ 151.115 through 151.122.

Comment: Like other cities in Oregon, Banks is responsible for helping ensure access to a variety of housing types that meet the needs of households and residents of all incomes, ages and specific needs. The permitted use list should be reviewed for internal consistency with housing objectives of the Comprehensive Plan. The list should also be reviewed to ensure that the mix and density of allowed housing can accommodate needed housing. Definitions should also be created for new housing types.

Table 151.040-A						
Land Uses Permitted in Residential Zoning District						
Land Use	LDSF	R5	HDSF	R2.5	HDMF	MU
Single-Family Detached Housing	P	P	N	P	N	S**
Accessory Dwelling Unit	S*	S*	S*	S*	S*	S*
Single-Family Attached Housing	CU	CU	P	N	N	S**
Manufactured Home - Individual lot	S****	S****	S****	S****	N	S****
Manufactured Home Park	S*****	S*****	S*****	CU	N	S*****
Two-Family Housing (Duplex)	CU	CU	N	P	N	N
Multi-Family Housing	N	N	N	P	P	S**
Residential Home	P	P	N	CU	N	S**

Daycare Facility	CU	CU	N	CU	N	S**
Home Occupation	S***	S***	S***	S***	S***	S***
Agriculture and Horticulture	N	N	N	N	N	N
Accessory Structure or Use	P	P	P	P	P	P
Church and Place of Worship	CU	CU	CU	CU	CU	CU
Club, Lodge and Similar Use	CU	CU	CU	CU	CU	CU
Government Office and Facilities	CU	CU	CU	CU	CU	CU
Library, Museum and Comm. Center	CU	CU	CU	CU	CU	CU
Wireless Communication Facility	N	N	CU	CU	CU	N
Public Park and Recreational Facility	CU	CU	CU	CU	CU	N
Public and Private School	CU	CU	CU	CU	CU	N
Bed and Breakfast	N	N	N	N	N	CU
Live/Work Residence	N	N	N	N	N	CU
Retail Sales and Service	N	N	N	N	N	S**
Prof. and Administrative Offices	N	N	N	N	N	S**
Medical and Dental Offices/Clinic	N	N	N	N	N	S**
Food-Beverage Sales, No Drive-Thru	N	N	N	N	N	S**
Similar Use per § 151.178(A)	P/CU	P/CU	P/CU	P/CU	P/CU	P/CU

Key:

- P = Permitted, subject to site/development review
- S* = Permitted, with standards per § 151.041(D)
- S** = Permitted, with standards per § 151.041(B)
- S*** = Permitted, with standards per § 151.122
- S**** = Permitted, with standards per § 151.041(F)
- S***** = Permitted, with standards per § 151.121
- CU = Conditional use required per § 151.116
- N = Not permitted

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. passed 8-13-1996; Am. Ord. 2013-06-01, passed 6-11-2013) Penalty, see § 151.999

§ 151.041 DEVELOPMENT STANDARDS.

(A) The development standards in Table 151.041 - A apply to all uses, structures, buildings,

and development allowed in the residential districts.

Comment: The development standards in this section should be closely reviewed. Stakeholders stated that the existing standards discourage development because they are outdated and don't provide for a broad range of housing types desired today. For instance, minimum lot area for higher density units are too high do not "work on the ground." Many jurisdictions are modifying the dimensional standards for residential units to support a wider range of development types. For instance, consider reducing front setback standards because the 15/20 ft. constrains the potential for some housing types, including townhomes, duplexes and small scale apartment buildings. In many cases, a more attractive and economical site layout is to place the building closer to the front lot line. This opens more space in the rear for parking and, if designed appropriately, creates an interesting street frontage. Design standards should be created specific to residential uses with a small front setback.

As recommended above, the minimum front setback for residential uses should be reduced to permit a wider range of attached single-family and multi-family housing types. Design standards should be developed that promote pedestrian-oriented frontages where residential uses are close to the sidewalk, such as limiting garages to a percentage of total façade, limiting the number of driveways, requiring garages to be setback further than the main entrance, and requiring stoops, patios, porches, windows, and landscaping to create interesting street frontages.

The code is lacking minimum and maximum density standards. A section should be provided to ensure efficient use of buildable lands and to provide with a range of needed housing.

Lot coverage standards should also be developed for Banks as well as building height measurements, exceptions and transitions.

Design standards should be customized based on local priorities and concerns. Consolidate residential design standards and organize around each residential district. Existing standards are located throughout the code and overlapping regulations can complicate the review process. Consider developing a set of standards for each type of residential use in each zone.

Dimensional standards should be simplified and tailored to address desired development types in each zoning district. Prepare a table with dimensional standards instead of text as illustrated in the example here.

EXAMPLE: Table 2.2.040.D – Lot and Development Standards for Residential zones

<i>Standard</i>	<i>RL Zone</i>	<i>[RM / RH] Zone</i>
Minimum Lot Area* (square feet)		
Single-Family, not attached		
Corner Lot	[6,000-7,000 sf] [5,000-6,000 sf]	[5,000-6,000 sf] [4,000-5,000 sf]
Not a Corner Lot	[4,000-5,000 sf] [4,000-5,000 sf]	[4,000-5,000 sf] [2,500-3,000 sf]
Single-Family, common-wall dwellings:		
Corner Lot	[6,000-6,500 sf] [6,000-9,000 sf] [6,000-9,000 sf] for the first 3 dwelling units, plus [800-1,500] for each additional unit.	[5,000-6,000 sf] [5,000-7,000 sf] [6,000-9,000 sf] for the first 3 dwelling units, plus [800-1,500] for each additional unit.
Not a Corner Lot	[800-1,500] for each additional unit. [6,000-9,000 sf]	[6,000-9,000 sf] [Same as single-family, not attached]
Single-Family, with accessory dwelling	[Same as single-family, not attached]	[1.5 times] minimum lot size]
Duplex	[1.5 times] minimum lot size]	
Multiple-Family or Cottage Cluster		



Table 151.041-A Development Standards in Residential Zoning Districts						
Development Standard	LDSF	R5	HDSF	R2.5	HDMF	MU
Minimum Density (DU/Net Acre)	6.22	8.71	10.89	17.42	24.00	10.00
Minimum Lot Area (square feet)	7,000*	5,000*	4,000	5,000	10,000	S**
Minimum Lot Width (feet)	70	50	40	50	100	S**
Minimum Lot Depth (feet)	100	100	100	100	100	S**
Maximum Building Coverage (%)	40	40	50	50	60	S**

Setback Requirements:						
Minimum Front Yard (feet)	20	20	15	20	15	S**
Minimum Side Yard (feet)	5	5	5	5	5	S**
Minimum Street Side Yard (feet)	15	15	10	15	10	S**
Minimum Rear Yard (feet)	15***	15***	15***	15***	15***	S**
Maximum Building Height (feet)	30	30	35	30	35	S**

Key:

* = Maximum lot size in LDSF Zone is 10,000 sf, and a duplex in LDSF or R5 Zones requires a minimum lot size of 9,000 sf.

** = See standard specified in § 151.041(B).

*** = Accessory structure allowed a minimum rear yard of 5 feet.

(B) *Mixed use*. The development standards below apply to all uses, structures, buildings, and development allowed in the Mixed Use District.

Comment: The following section on mixed use development is awkward and lacks organization. Consider reviewing the mixed use standards to ensure they “work on the ground” and separate into dimensional standards and design standards in a separate section. Remove definition language and place in the definitions chapter of the code. Ensure standards are tailored for a clear and objective track as well as a discretionary track, consistent with state law.

(1) *Mixed use development required*. Residential uses with commercial or civic uses shall be included as part of a mixed use development. Both “vertical” mixed use (housing above the ground floor) developments are allowed, subject to the standards cited herein.

(a) **MIXED-USE BUILDING**. A building that contains at least 1 floor devoted to allowed nonresidential uses and at least 1 devoted to allowed residential uses.

(b) **GROSS FLOOR AREA**. The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings. Gross floor area does not include basements when at least ½ the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard), attic space having a floor-to-ceiling height less than 7 feet, exterior balconies, uncovered steps, or inner courts.

(2) *Limitation on street level housing*. No more than 50% of a single street frontage shall be occupied by residential uses. This standard is intended to reserve store front space for commercial and civic uses. It does not limit residential uses above the street level on upper stories, or behind street level store fronts.

(3) *Density*. The minimum residential density standard is 10 dwelling units per net acre. There is no maximum density standard, and development shall otherwise be controlled by standards specified for the MU District.

(4) *Commercial establishment size limits*. The gross floor area of commercial establishments in the MU District shall not exceed 10,000 square feet.

(5) *Indoor/outdoor operations*. All permitted uses shall be conducted within completely

enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

(6) *Floor-to-floor heights and floor area of ground-floor space.*

(a) All commercial floor space provided on the ground floor of a mixed-use building shall have a minimum floor-to-ceiling height of 11 feet for new building construction.

(b) All commercial floor space provided on the ground floor of a mixed-use building shall contain the following minimum floor area:

1. At least 800 square feet or 25% of the lot area (whichever is greater) on lots with street frontage of less than 50 feet; or

2. At least 20% of the lot area on lots with 50 feet of street frontage or more.

(7) *Lot area per unit.* The minimum lot area per dwelling unit shall be 4,356 square feet for mixed-use buildings.

(8) *Floor area ratio.* The maximum FAR, which means the ratio of a building's gross floor area to the area of the lot on which the building is located, shall be 2.0 for mixed-use buildings.

(9) *Setbacks.*

(a) The entire building facade shall either abut front and street side property lines or be located within 10 feet of such property lines.

(b) The minimum rear setback shall be 20% of the lot depth.

(c) No interior side setbacks are required, except when MU-zoned property abuts residentially zoned property, in which case the minimum side setback required in the MU District shall be the same as required for the abutting residentially zoned lot.

(10) *Building height.* The maximum building height shall be 45 feet for mixed-use buildings.

(11) *Off-street parking.*

(a) Required off-street parking for residential uses in mixed-use buildings shall be 1 space per dwelling unit.

(b) Off-street parking is not required for nonresidential uses unless such uses exceed 2,500 square feet of gross floor area, in which case off-street parking shall be provided based on one space for every 1,000 square feet of floor area in excess of 2,500 square feet.

(c) Off-street parking spaces shall be located to the rear of the principal building or otherwise screened to be not visible from the public right-of-way.

(12) *Transparency.*

(a) A minimum of 60% of the street-facing building facade shall be comprised of clear windows that allow views of indoor space or product display areas.

(b) The bottom of any window or product display window used to satisfy the transparency standard of division (a) above shall not be more than 2 feet above the adjacent sidewalk.

(c) Product display windows used to satisfy these requirements shall have a minimum height of 4 feet and be internally lighted.

(13) *Doors and entrances.*

(a) Buildings shall have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

(b) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(C) *Live/work residence.* The development standards listed below apply to all live-work

residences. Live/work residence means a habitable structure constructed in accordance with the Uniform Building Code that allows for a professional office or commercial retail or service use to be operated on the ground floor, with the business owner's residence on the upper floor. The permitted live/work housing types are defined below:

(1) *Live/work house*. A single-family detached or attached dwelling with no more than 50% of the ground floor of the building available as business space.

(2) *Live/work townhouse*. A residential, fee simple townhouse unit in which a business may be operated. The commercial portion of the building shall be limited to the ground floor and may not exceed 50% of the square footage of the entire townhouse unit, excluding the garage.

(3) *Live/work apartment*. A primarily residential multi-story, multi-unit building with those apartments on the ground floor having space designated as available for business use not to exceed 50% of the square footage of the entire apartment unit, excluding the garage. Apartment units may be for rent or for sale in condominium or cooperative ownership.

(D) *Accessory dwelling unit*. The development standards listed below apply to all accessory dwelling units. Accessory dwelling unit means a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a portion of an existing house, or a unit attached above a garage. Accessory dwelling units shall comply with the following standards:

(1) The primary residence or accessory dwelling unit shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the principal house and manager of the accessory dwelling.

Comment: Senate Bill 1051 changed state law regarding accessory dwelling units. It is no longer legal to require owner-occupancy of the primary unit. Revise the accessory dwelling unit section consistent with new state law.

(2) A maximum of 1 accessory dwelling unit is allowed per lot.

(3) The maximum floor area of the accessory dwelling unit shall not exceed 800 square feet.

Comment: Revisit the landscaping standards to make sure they are not overly excessive. Revise to include clear and objective standards as well as discretionary guidelines. Reorganize under each zoning district.

(E) *Landscaping standards*. The following landscaping standards apply to all new developments located in the HDSF, R2.5 and HDMF Districts. Additional landscaping standards as applicable are specified in §§ 151.073 and 151.074.

(1) *Landscaping plan required*. A landscape plan is required for submittal and approval for all new developments cited in the residential districts above. Submittal of a landscape plan drawn to scale shall show information and conform to requirements as follows:

(a) The location and height of existing and proposed fences, buffering or screening materials.

(b) The location, size, and type of existing trees having a 6-inch or greater diameter

measured 4.5 feet above ground.

(c) Plant selection shall not include invasive species and include a combination of deciduous and evergreen trees, shrubs, and ground covers to be used for all planted areas, the selection of which shall provide, as applicable, erosion control, visual interest, buffering, privacy, open space, pathway identification, shading, and wind buffering. When new vegetation is planted, soils shall be amended, as necessary, to allow for healthy plant growth.

1. Trees shall have a minimum diameter or caliper measured 4.5 feet above ground of 2 inches or greater at time of planting.

2. Shrubs shall be planted from 5 gallon containers or larger.

3. All landscaped areas that are not planted with trees and shrubs shall have ground cover plants that are sized and spaced as follows: a minimum of 1 plant per 12 inches on center in triangular spacing, or other planting pattern that is designed to achieve 75% coverage of the area not covered by shrubs and tree plantings.

4. Non-plant ground covers such as bark dust, chips, aggregate, or other non-plant ground covers may be used and shall be confined to areas underneath plants. Non-plant ground covers shall not be a substitute for ground cover plants.

(d) Method of irrigation for proposed trees and plant materials.

(e) An arborist's report may be required for sites with mature trees to be preserved and protected during construction.

(f) Other information as deemed appropriate by the City Planner.

(2) *Landscape area standard.* The minimum area of required landscaping shall be 15% of the total site area.

(F) *Standards for manufactured homes located outside manufactured home parks.* The following standards apply to manufactured homes located outside manufactured home parks in the LDSF, R5 and HDSF Districts:

(1) The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.

(2) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

(3) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal 3 feet in height for each 12 feet in width.

(4) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community and which is comparable to the predominant materials used on dwellings on adjoining sites as determined by the Planning Commission.

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

(6) The manufactured home shall have a garage or carport constructed of like materials.

(7) In addition to the above standards, the manufactured home shall comply with the development standards cited in Table 151.041-A.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2013-06-01, passed

6-11-2013) Penalty, see § 151.999

§ 151.042 COMMUNITY FACILITIES ZONE CF.

Comment: Consider reviewing the permitted use list to determine if any uses are missing or desired by the City.

(A) *Purpose.* The purpose of the Community Facilities Zone is to provide zoning regulations and public review to ensure the appropriate development of properties in the City of Banks which are owned by public or semi-public agencies and which are intended to be used for community facilities, while encouraging the preservation of natural resources inventoried under the requirements of statewide planning goals.

(B) *Conditional uses permitted.* The following uses and accessory uses or expansions of existing uses may be permitted as conditional uses in accordance with the provisions of §§ 151.115*et seq.*:

(1) Public park and playground, swimming pool, community center, golf course and similar recreational facilities;

(2) Public school and associated facilities; and

(3) Government institution; community service facility; caretaker facility.

(C) *Lot dimensions.* There shall be no minimum dimensional requirements in this zone, except as may be required to meet other requirements of this chapter such as setback and parking requirements.

(D) *Setback requirements.* Except as may be otherwise provided in § 151.097, the setbacks in this zone shall be as follows.

(1) The front yard setback shall be a minimum of 20 feet.

(2) The side and rear yard setbacks shall be a minimum of 10 feet.

(3) On a corner lot, the side yard on the street side shall be a minimum of 15 feet.

(E) *Height of buildings.* Except as may be otherwise provided in § 151.098, no building in this zone shall exceed a height of 3 stories or 35 feet, whichever is less.

(F) *Additional requirements.* Additional requirements applicable to this zone include the provisions of §§ 151.060*et seq.*

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.043 GENERAL COMMERCIAL ZONE C.

Comment: Consider reviewing the permitted use list to determine if any uses are missing or desired by the City. Review both permitted uses and conditional uses and determine if special design standards are needed for a particular use.

For instance, drive in and drive through establishments as well as auto service stations should contain special site design standards to mitigate the adverse impacts of these uses on the pedestrian environment and adjacent storefront businesses and residences along NW Main Street. This is also true if automobile sales and farm equipment are permitted uses in the

C Zone. Other uses that should require special use standards include artisanal and light manufacture uses, residential care facilities, home occupations, etc.

Wholesale and distribution businesses should be subject to a maximum square footage to ensure a large wholesale/distribution business does not take space in an area envisioned for a pedestrian friendly environment.

Lumber yards are not recommended to be allowed in the C zone and should only be located in an industrial district.

Also consider removing the North Banks overlay area section in (B)(20). This section allows for industrial uses in the north part of Main Street. It is outdated and conflicts with the adopted downtown Vision 2037 plan which recognizes this part of Banks as the vibrant, pedestrian-friendly downtown core. While industrial uses should be allowed to remain, new industrial uses should not be permitted because they conflict with plan goals. Residential uses should remain as an allowable use in the C zone, subject to special design standards for multi-unit developments. Design standards should address mitigating conflicts between pedestrians and vehicles, building design, private outdoor spaces, orientation of buildings on the site, access, etc.

(A) *Uses permitted outright.* Uses permitted outright in this zone shall include all retail sales and service, and office uses, including a structure up to 20,000 square feet gross floor area, except as specifically listed as a conditional use. This includes:

(1) Consumer goods sales, rental, repair and service (e.g., automobiles and automobile parts and accessories, retail bakery, florist, gift shop, grocery, meat market, shoe sales and repair, bookstore, tailor shop; appliance, clothing, department, farm supplies and equipment, furniture, garden supplies, jewelry, records, second hand goods, sporting goods, stationery, and variety store; newsstand, pet shop, and the like.);

(2) Personal service, i.e. barber, beauty salon, tanning salon; dry cleaner, Laundromat; copy shop; medical, dental, veterinary, legal, financial, real estate, photographer's and other professional business; janitorial service; plumbing, electrical and contractor sales and service, delicatessen, restaurant (provided no liquor is served on the premises), and the like; and

(3) Accessory uses and structures.

(B) *Conditional uses permitted.* In this zone, the following uses and their accessory uses may be permitted as conditional uses in accordance with the provisions of §§ 151.115et seq.:

- (1) Automobile service stations;
- (2) Vehicle and farm equipment repair;
- (3) Recreational vehicle park, campground;
- (4) Community service; government institution;
- (5) Utilities;
- (6) Radio and TV stations and transmitters;
- (7) Lumber yard;
- (8) Medical institutions offering overnight care and treatment;

- (9) Schools;
 - (10) Daycare centers;
 - (11) Religious institutions;
 - (12) Wholesale and distribution business;
 - (13) Drive-in establishments;
 - (14) Personal entertainment, i.e. restaurant, bar, hotel, motel, bowling alley, billiard or pool hall, arcade, movie theater, ice rink, dance hall, health club, membership club, lodge, fraternal organization, and the like;
 - (15) Major entertainment, i.e. stadium, sports arena, coliseum, race track, auditorium, rodeo grounds, exhibition hall, and other structures and activities which generally draw large numbers of spectators to specific events or shows;
 - (16) Retail establishment or office over 20,000 square feet;
 - (17) Any processing, activity, or display essential or incidental to a permitted use which is not conducted entirely within an enclosed building;
 - (18) Any use or storage of hazardous materials in amounts exceeding consumer commodities;
 - (19) Fuel oil distribution and storage; and
 - (20) North Banks area only:
 - (a) Uses permitted outright under § 151.044(A); and
 - (b) Multi-family residential uses in accordance with § 151.041.
- (C) *Lot dimensions.* There shall be no minimum dimensional regulations in this zone except as may be required to meet other provisions of this chapter such as setback and parking requirements.
- (D) *Setback requirements.* Except as may otherwise be provided in § 151.097, the setbacks in this zone shall be as follows.
- (1) No front yard setback shall be required in this zone, except when sharing frontage with a residential zone, the front yard setback shall be 20 feet. No front yard setback shall be required in the Commercial district along Main Street.
 - (2) No side or rear yard setback shall be required, except when abutting a residential zone, a side or rear yard of 5 feet shall be required.
- (E) *Height of buildings.* Except as otherwise provided in § 151.098, no building in this zone shall exceed a height of 3 stories or 35 feet, whichever is less.
- (F) *Additional requirements.* Additional requirements applicable to this zone include the provisions of §§ 151.060*et seq.*
- (Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.044 GENERAL INDUSTRIAL ZONE I.

Comment: Consider reviewing the permitted use list to determine if any uses are missing or desired by the City. Review both permitted uses and conditional uses and determine if special design standards are needed.

(A) *Uses permitted outright.* No building, structure, or land shall be used, and no building or structure shall hereafter be erected, enlarged, or altered in this zone, except for the following

uses:

- (1) Boat building;
 - (2) Book bindery;
 - (3) Bottling plant;
 - (4) Coffee roasting;
 - (5) Cold storage plant;
 - (6) Feed and seed processing and storage;
 - (7) Laboratories: experimental, dental, medical, photo, or motion picture, research or testing;
 - (8) Laundry or dry cleaning plant;
 - (9) Lumber yard;
 - (10) Manufacture, assembly, compounding, processing, packaging or treatment of the products as bakery goods, candy, cosmetics, dairy products, food and beverage products, electric and neon signs, billboards or commercial advertising structures, clothing, furniture, electrical goods, heating equipment, paper products (but not paper itself), tools and hardware, boxes, coffins, medicines, musical instruments, toys, novelties, rubber or metal stamps, optical goods, scientific and precision instruments or equipment, pottery and other similar ceramic products, sash and door, surgical instruments and dressings, artificial limbs, dentures, hearing aids and other devices employed by the medical and dental professions, electrical appliances, electronic instruments and devices, radios, phonographs, television;
 - (11) Planing mill;
 - (12) Plastics; molding of, including the manufacture or products thereof, provided all grinding operations are conducted within a building;
 - (13) Plumbing, electrical or general contractor and shop, including storage of contractors' equipment;
 - (14) Plywood sales;
 - (15) Public service and utility;
 - (16) Sheet metal, machine and welding shop;
 - (17) Single-family dwellings and their accessory uses lawfully established as of June 13, 2014;
 - (18) Replacement dwellings for single-family dwellings lawfully;
 - (19) Vehicle and farm equipment repair;
 - (20) Veterinarian or animal hospital;
 - (21) Warehousing, distribution;
 - (22) Weaving of clothing, wool, flax, and other fibrous materials; and
 - (23) Accessory use of structure, including caretaker residence.
- (B) *Conditional uses permitted.* In this zone, the following uses and their accessory uses may be permitted conditional uses when in accordance with §§ 151.115*et seq.*:
- (1) Automobile service station;
 - (2) Batteries, paint, pickles, sauerkraut or vinegar, wallboard, cans, soap and cleaning compounds, paper; manufacture of;
 - (3) Brewery;
 - (4) Drive-in theaters;
 - (5) Flour milling, grain storage, or elevator;

- (6) Fruit packing and processing; cannery;
- (7) Fuel oil distribution (home use only) and storage;
- (8) Foundry;
- (9) Natural resource extraction, gravel mining and rock crushing, subject to the provisions set forth in § 151.119;
- (10) Manufacture of motor vehicles, trucks, recreational vehicles, and utility trailers as well as mobile homes;
- (11) Public utility (such as water tower, substations, and the like);
- (12) Radio and TV transmitters;
- (13) Railroad right-of-way, truckage and related facilities;
- (14) Slaughterhouse;
- (15) Solid waste facilities; auto wrecking yards, junkyards; subject to the provisions of § 151.120;
- (16) Stone, marble, and granite grinding, dressing, and cutting;
- (17) Any other use held similar to the above uses, as approved by the City Council;
- (18) Any processing activity or display essential or incidental to any permitted use in this zone and not conducted entirely within an enclosed building; and
- (19) Any use or storage of hazardous materials in amounts or forms exceeding consumer commodities.

(C) *Lot dimensions.* There shall be no minimum dimensional requirements in this zone except as may be required to meet other provisions of this chapter such as setback and parking requirements.

(D) *Setback requirements.* Except as may otherwise be provided in § 151.097, the setbacks for residential and nonresidential uses in this zone shall be as follows.

- (1) The front yard setback shall be 20 feet.
- (2) The side and rear yard setback shall be 20 feet when abutting a residential zone.
- (3) Setbacks are not required when side or rear property lines abut a railroad right-of-way.

(E) *Height of buildings.* Except as otherwise provided in § 151.098, no building in this zone shall exceed a height of 3 stories or 35 feet, whichever is less.

(F) *Additional requirements.* Additional requirements applicable to this zone include the provisions of §§ 151.060*et seq.*
 (Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2014-05-01, passed 5-13-2014) Penalty, see § 151.999

§ 151.045 HISTORIC RESOURCE OVERLAY ZONE H.

Comment: The City does not have a designated historic overlay zone. Consider if this section is needed or should be removed.

(A) *Purpose.* The purpose of the Historic Overlay Zone is to promote the public health, safety, and general welfare by providing for the preservation, protection, enhancement, and perpetuation of designated historic sites and structures in order to:

- (1) Safeguard the city's heritage as embodied and reflected in its historic resources;
- (2) Encourage public awareness, knowledge, and appreciation of the city's history and culture;
- (3) Foster community pride and sense of identity based on recognition and use of historic resources;
- (4) Identify and resolve conflicts between the preservation of historic resources and incompatible improvements or loss of the resource; and
- (5) Carry out the provisions of Oregon's Statewide Planning Goal 5.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. The vertical or horizontal addition to, removal of or from, or physical modification of any exterior part of portion of a historic site or structure. The addition of exterior signs, walls, fences, decks, porches, and the like shall be considered an alteration. **ALTERATIONS,** which cumulatively affect less than 15% of the surface area of the face of the building which they are on, do not require review and approval.

HISTORIC RESOURCE. An individual structure or site of historic significance as defined below, and which is identified in the Banks Comprehensive Plan.

HISTORIC SIGNIFICANCE. A building or site with historic significance:

- (a) Is associated with a significant historic event or with a person, group of persons, or institution which made a significant contribution to the community, state, or nation;
- (b) Represents a distinctive architectural style or building type and includes distinguishing architectural details, materials, or craftsmanship characteristic of a historic architectural style; and/or
- (c) The exterior appearance of the building or site must be generally unaltered from the period from which it derives its significance.

(C) *General provisions.*

(1) *Applicability; permit required.* All proposed exterior alterations and demolitions of sites and structures subject to the Historic Resource Overlay Zone shall be subject to the provisions of this section, with the exception of improvements or demolitions required by other governmental agencies. Planning Commission approval of the proposed alteration or demolition is required before a building permit can be issued.

(2) *Uses allowed.* All uses allowed in the primary district in which the historic site or structure is located shall be allowed.

(3) *Ordinary maintenance and repair.* Nothing in this section shall be construed to prevent the ordinary maintenance and repair of a designated historic resource.

(4) *Application procedure.* Applications for approval of exterior alteration or demolition of a historic resource shall be submitted to the City Recorder and shall include a site plan, architectural drawings, and a description of the proposal and its compliance with the criteria below. There shall be no fee for this procedure. Upon receipt of a complete application, the Planning Commission will schedule a public hearing consistent with the provisions of §§ 151.170, with the exception of § 151.174. When demolition is proposed, a notice will be posted on the property consistent with city requirements.

(5) *Planning Commission review.* The Planning Commission shall issue a decision on the request within 60 days of receipt of a complete application. The Planning Commission may

attach conditions necessary to ensure compliance with the purpose of this section, which may include a condition to delay the proposed action for a maximum of 60 days from the date of the decision until a more satisfactory solution can be found.

(6) *Review criteria.* In evaluating applications for exterior alterations, the Planning Commission shall consider:

(a) The purpose or necessity of the proposed alteration; the compatibility of the proposed alteration with the traditional;

(b) Historic character and architectural integrity of the structure or site in terms of design, architectural detail, scale, proportion, materials, and texture; and

(c) Whether the proposed alteration is the minimum or least disruptive alteration to meet the desired purpose.

(7) *Applications for demolitions.* In reviewing applications for demolitions, the Planning Commission shall consider:

(a) The physical condition and safety of the structure; and

(b) Whether a reasonable effort has been made to preserve the structure by restoration or removal, by offering the structure for sale or public acquisition, or by alternative means. Advertising the building for sale for 2 consecutive weeks in a newspaper of general circulation in the Banks area, and documenting that the highest bona fide offer for the structure has not been rejected, shall constitute satisfactory evidence of reasonable effort to preserve the structure.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

DEVELOPMENT STANDARDS

Comment: The development standards of this section should be moved to each zoning district, where appropriate. One new section for parking and loading should be created. In addition, consider moving some or all of the parking design standards to the Public Works Design Standards to make the development code more efficient.

Comment: Section 151.060 is outdated and not part of a modern development code. The underlying zoning district development standards dictate minimum lot areas and setback. Consider deleting.

§ 151.060 MAINTENANCE OF MINIMUM LOT AREA AND SETBACK 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 1 use shall be used as the required lot area, yard, or other open space for another use.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

Comment: Consider creating a new chapter called Access and Circulation. This would

encompass design standards for vehicular and pedestrian access, circulation and connectivity, folding in Section 151.061. This new chapter would implement the Banks Transportation System Plan and is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations. The vehicle access and circulation section would contain standards and cross references to the Public Works Design Standards addressing driveway development standards, approach separation and spacing, vision clearance, joint access, etc. The pedestrian access and circulation section would implement the Banks Transportation System Plan sections of pedestrian access and connectivity. Standards would include walkway design standards.

§ 151.061 ACCESS.

Except as modified in this section, every lot shall abut a street, other than an alley, for at least 20 feet.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.062 ACCESSORY USES AND STRUCTURES.

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

Comment: Consider if additional flexibility should be given to accessory structures located on a lot. Currently they are required to meet setbacks for principal use. Consider if they should be allowed a smaller setback.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.063 FENCES.

Comment: This section should be simplified. The content appears to work for Banks but could be better organized.

A new chapter called Landscaping, Fences, Walls and Outdoor Lighting should be developed. The landscape section should include drought-tolerant landscaping (implementing ORS 105.980). Basic lighting standards should also be prepared and included. Currently Banks has limited landscaping standards and limited screening standards. No outdoor lighting language is found in the current code.

(A) *Purpose.* This section contains the general policies and requirements regarding the location, placement, restrictions, permitting, and fees associated with fences.

(B) *Permitting and fees.* All new fences and major renovations that change the height or location of an existing fence must have permits. It shall be unlawful for any person, firm, or corporation to construct a fence or modify an existing part thereof without compliance with the standards described herein and first obtaining a permit from the city. A fence permit application signed by the property owner shall include information regarding the type, height, and location of the proposed fence; agreement to maintain the landscape strip in the front yard (if applicable); and be accompanied by a filing fee to cover the cost of permit review and site inspection.

(C) *Key definitions for fences.* Section 151.003 defines specialized terms that describe the placement and location of fences as follows.

(1) *Front yard.* A yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of a building or other structure. See illustration in Appendix A.

(2) *Side yard.* 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 or other structure. See illustration in Appendix A.

(3) *Street side yard.* A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure. See illustration in Appendix A. This definition only applies to corner lots.

(4) *Rear yard.* A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building or other structure. See illustration in Appendix A.

(5) *Through lot.* Not specifically defined, but § 151.003 refers in the case of a through lot, each street has a front lot line. A through lot may be described as a lot having street frontage on opposite ends of the lot. Both frontages would normally be considered a front yard, except as provided under division (G) below. See illustration in Appendix F.

(6) *Vision clearance triangle.* This definition only applies to corner lots and is the triangular area located at the intersection of the front and street side lot lines, i.e., measure back 20 feet from the intersection point to identify the triangular area. See illustration in Appendix B.

(D) *General fence provisions.*

(1) A fence on a corner lot shall not violate the 20-foot vision clearance triangle as specified § 151.065.

(2) In no instance shall a fence extend beyond the property line or be constructed higher than 6 feet above the finished grade of the lot. (A lower height fence may be required as described under division (E) below.)

(3) Fencing shall be installed at least 3 feet from a utility pedestal or electrical transformer and not completely enclose them.

(4) Requirements specified under divisions (D)(1) through (D)(3) above and the specific restrictions specified under divisions (E) through (G) below are applicable to site landscaping such as hedges, trees, and shrubbery.

(5) Fencing for residential swimming pools shall comply with the barrier requirements specified in the International One- and Two-Family Dwelling Code, as administered by the Washington County Building Services Division.

(6) The use of barbed wire, electric fencing (above grade), or other types of injury causing fencing material shall be prohibited in the R5, R2.5, and CF Zoning Districts.

(E) *Specific front and street side yard fence restrictions.*

(1) A fence located in a required front yard or street side yard shall not exceed 3.5 feet in height measured from the original finished grade of the lot, except as provided in divisions (E)(2) and (E)(3) below.

(2) Fences on street side yards of corner lots that do not abut a front yard on the adjoining lot may have a 6-foot fence or hedge installed in the street side yard, provided the following requirements are satisfied.

(a) The street intersection for the corner lot shall be controlled by stop signs on at least 1 of the intersecting streets.

(b) A minimum clear sight distance of up to 250 feet measured from the street intersection along the side yard street shall be provided for a street with a speed limit of 25 mph. For streets with higher speed limits, the minimum clear sight distance shall be equal to 10 times the legal speed of the street.

(c) No driveway access shall be located in the street side yard on the subject property or abutting lot.

(d) The fence must be setback a minimum of 18 inches from a sidewalk. This strip between the fence and sidewalk shall be landscaped and maintained by the homeowner. A written maintenance agreement shall be incorporated into the fence permit for signature by the homeowner.

(3) Fences on street side yards of corner lots that abut a front yard on the adjoining lot may have a 6-foot fence or hedge installed in the street side yard, provided the following requirements are satisfied.

(a) The street intersection for the corner lot shall be controlled by stop signs on at least 1 of the intersecting streets.

(b) A minimum clear sight distance of up to 250 feet measured from the driver's point of view at 10 feet of the front lot line from the driveway of the adjoining lot shall be provided for a street with a speed limit of 25 mph. For streets with higher speed limits, the minimum clear sight distance shall be equal to 10 times the legal speed of the street.

(c) A minimum clear sight distance of up to 250 feet measured from the street intersection along the side yard street shall be provided for a street with a speed limit of 25 mph. For streets with higher speed limits, the minimum clear sight distance shall be equal to 10 times the legal speed of the street.

(d) No driveway access shall be located in the street side yard on the subject property.

(e) The fence must be setback a minimum of 18 inches from a sidewalk. This strip between the fence and sidewalk shall be landscaped and maintained by the homeowner. A written maintenance agreement shall be incorporated into the fence permit for signature by the homeowner.

(F) *Specific side and rear yard fence restrictions.* Fences located within a required side or rear yard shall not exceed 6 feet in height as measured from the ground on either side of the fence. The fence may be located on the common lot line.

(G) *Through lot fence restrictions.* In the case of a through lot, the yard facing the rear of the house may be considered a rear yard for fence height purposes, provided there is no driveway access from the rear yard and the minimum clear sight distance for adjacent driveways on either side of the lot is maintained as required under division (E)(3)(b) above. See the illustration in

Appendix F.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 4.041, passed - -; Am. Ord. 2002-03, passed 3-1-1999) Penalty, see § 151.999

§ 151.064 PERFORMANCE STANDARDS.

Comment: This section is awkward and outdated. Consider if still necessary or if it could be removed. Any standards that remain should be incorporated into the design standards section for the applicable zone. For instance (12) Landscaping and screening language should be removed and added into the section for commercial and industrial districts.

(A) In a Commercial or Industrial zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards. All land use and development applications in a Commercial or Industrial zone shall comply with the below standards, in addition to compliance with all design standards contained in City of Banks Municipal Code Chapter 152 (Land Division Regulations).

(B) It is the responsibility of the applicant to demonstrate compliance with these standards.

(1) *Noise.*

(a) All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and, as measured at any property line, shall not exceed applicable noise standards as determined by the Department of Environmental Quality (DEQ).

(b) Noise making devices, which are maintained and utilized, solely to serve as warning devices are excluded from these regulations.

(c) Noise created by highway vehicles and trains is excluded from these regulations.

(2) *Vibration.* No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at the property line of the use concerned.

(3) *Air emissions.* All emissions into the air of air contaminants, smoke, or particulate must meet applicable DEQ standards.

(4) *Wastewater discharge.* All wastewater discharge must meet applicable DEQ standards and must be approved by U.S.A.

(5) *Storm water disposal.* All developments including new construction or enlargement of buildings, and grading and paving activities at the site of new or existing uses must be provided with a drainage system that is adequate to prevent undue retention of surface waters on the site, and to ensure that adjacent properties are not unreasonably burdened with surface waters as a result of the developments or activities. The standard of reasonableness shall be the runoff rate existing prior to the development plus an increase of no more than 10%.

(6) *Odors.* The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.

(7) *Heat and glare.*

(a) Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.

(b) Exterior lighting shall be directed away from adjacent properties.

(8) *Garbage and litter.* Materials including wastes shall be stored and grounds shall be

maintained in a manner that will not create a nuisance for surrounding properties and will not attract or aid the propagation of insects or rodents or create a health hazard.

(9) *Exterior storage of materials and equipment.* The open exterior storage of materials and equipment is permitted only under the following conditions.

(a) The storage must be in an area contained by a sight-obscuring fence at least 6 feet high but not more than 10 feet high.

(b) Exterior storage may not be located in a required setback area.

(c) Other standards of this section apply.

(10) *Boundary fences.* Fences will be allowed inside of a boundary planting screen and where it is necessary to protect property of the industry or business concerned or to protect the public from a dangerous condition, provided that no fence taller than 3 and ½ feet shall be constructed in the required setback from a public right-of-way.

(11) *Vehicular access.*

(a) Access points to an industrial or commercial site from a street shall be located to minimize traffic congestion and, to the extent possible, to avoid directing traffic into residential areas.

(b) Where possible within industrial or commercial districts, access to the street shall be made to serve more than 1 site or business.

(12) *Landscaping and screening.*

(a) Properties abutting a residential zone shall provide and maintain a dense evergreen landscaped buffer at least 8 feet deep which attains a height of at least 6 feet within 2 growing seasons or the other screening measures as may be prescribed by the Planning Commission.

(b) Required setback areas adjacent to streets shall be continuously maintained in lawn or with lawn, trees, shrubs, and/or flowers established and maintained in a manner providing a park like character to the property except where driveways are located.

(C) All land use and development applications shall comply with the following standards and procedures for the purpose of protecting the future operation of the Banks transportation system:

(1) *Development standards.* The following standards shall be met for all new uses and developments:

(a) All new lots created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation must have frontage or approved access to a public street.

(b) Streets within or adjacent to a development shall be improved in accordance with the Banks street design standards (§ 152.052).

(c) Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this section, and public streets shall be dedicated to the applicable road authority.

(d) New streets and drives shall be paved.

(2) *Guarantee.* The city may accept a future improvement guarantee (e.g., owner agrees not to object to the formation of a local improvement district in the future) in lieu of street improvements if one or more of the following conditions exist:

(a) A partial improvement would create a potential safety hazard to motorists or pedestrians;

(b) Due to the developed condition of adjacent properties it is unlikely that street

improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;

(c) The improvement would be in conflict with an adopted capital improvement plan; or

(d) The improvement is associated with an approved land partition in a residential district and the proposed land partition does not create any new streets.

(3) *Creation of rights-of-way for streets and related purposes.* Streets shall be created through the approval and recording of a final subdivision or partition plat; except the city may approve the creation of a street by acceptance of a deed, provided that the street is deemed in the public interest by the City Council for the purpose of implementing the Comprehensive Plan, and the deeded right-of-way conforms to the standards of this code.

(4) *Creation of access easements.* The city may approve an access easement when the easement is necessary to provide for access and circulation in conformance with §§ 152.052 (Streets); 152.053 (Blocks) and; 152.054 (Building Sites). Access easements shall be created and maintained in accordance with the Uniform Fire Code Section 10.207.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2011-04-02, passed 4-12-2011) Penalty, see § 151.999

§ 151.065 VISIBILITY CLEARANCE.

(A) *Generally.* Corner lots shall have vision clearance as follows.

(B) *Specifically.*

(1) In districts where front yards are required, each leg of the vision clearance triangle shall be a minimum of 20 feet in length.

(Am. Ord. 040100, passed 5-9-2000)

(2) Vision clearance triangles shall be kept free of all visual obstructions from 2 and ½ feet to 9 feet above the curb line. Where curbs are absent, the crown of adjacent streets shall be used as the point of reference.

(3) Vision clearance requirements on corner lots may be waived by the City Council or his or her designee, if the City Council finds that:

(a) Traffic entering the intersection is controlled by traffic signals or stop signs;

(b) The distance from the curb line to the property line is 10 feet or more; and

(c) On-street vehicle parking, street trees or other plantings do not interfere with necessary vision clearance; or, in lieu of these 3 findings, that

(d) Topographic conditions are so extreme that it is not practical to provide required vision clearance.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.066 PARKING IN RESIDENTIAL ZONES.

Comment: Consider removing this section and placing it in the Public Works Design Manual. Update as necessary.

(A) *Generally.* In residential zones, the parking or storage of heavy trucks and of neglected or discarded vehicles is prohibited.

(B) *Level of service descriptions.*

(1) Level of service - A Volume/ Capacity, Ratio - 0 - 0.59.

(a) Free flow conditions; and

(b) No vehicle waits longer than 1 signal indication.

(2) Level of service - B Volume/Capacity Ratio 0.60 – 0.69.

(a) Stable traffic flow; and

(b) Motorists rarely wait through more than 1 signal indication.

(3) Level of service - C Volume/ Capacity Ratio 0.70 - 0.79.

(a) Stable and acceptable flow but speed and maneuverability somewhat restricted due to higher volumes;

(b) Motorists intermittently wait through more than 1 signal indication; and

(c) Occasional backups behind left turning vehicle.

(4) Level of service - D Volume/Capacity Ratio 0.80 0 - 0.89.

(a) Extensive delays at times;

(b) Some motorists, especially left turners, may wait through 1 or more signal indications, but enough cycles with lower demand occur to prevent excessive backups; and

(c) Maneuverability restricted.

(5) Level of service - E Volume/ Capacity. Ratio 0.90 - 0.99.

(a) Very long queues may create lengthy delays, especially for left turning vehicles;

(b) Volume at or near capacity; and

(c) Unstable flow.

(6) Level of service:

(a) Backups from locations downstream restrict movement at intersection approaches;

(b) Forced flow conditions;

(c) Stoppage for long periods due to congestion; and

(d) Volumes drop to zero in extreme cases.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.067 PERFORMANCE BONDS.

Comment: Consider updating this section with modern language and options for developer guarantees.

Performance bonds may be required in the cases where the City Council determines that such shall be necessary to guarantee proper completion of required improvements within time periods specified.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.068 OFF-STREET PARKING; POLICY.

Comment: Sections 151.068 through 151.080 should be simplified. Consider reviewing the permitted use list to determine if any uses are missing or desired by the City.

A new chapter called Parking and Loading should be created. This new chapter would provide standards to manage vehicle and bicycle parking. The new chapter should contain standards to encourage flexible parking requirements. In many cases, codes that require excessive parking wastes resources and land area that could be used for employment, housing, open space or other uses. Large paved areas also contribute to storm water runoff. Additionally, walkable downtown areas and main street districts could be negatively altered if too much parking is required.

A new chapter should provide for vehicle and parking standards for select uses, while being flexible and allowing for individual use determinations. Rarely does one size fit all. The intent of the chapter should be to require the right amount of parking, not more than is needed. Where the minimum parking ratios in the code do not fit a particular use or situation, the code should allow for individual parking determinations based on the specific characteristics of the use and the supply and utilization of existing on- and off-street parking.

Consider a new chapter that encourages parking management through reductions in required parking, where appropriate, use of shared parking where uses with different peak customer hours agree to pool their parking supply, reductions in required parking in areas with an ample supply of on-street parking. The chapter should be designed to minimize the negative effects of parking while meeting the needs of households and businesses. This new chapter, along with other new suggested chapters (building orientation, pedestrian access, etc.) can help support attractive and walkable developments that conserve land while providing for needed parking.

A new chapter would contain subsections addressing applicability, parking calculations of required and allowed parking, a maximum number of spaces, shared parking, exemptions and reductions to off-street parking and parking stall design and electric charging stations. Bicycle parking standards are also provided in this new chapter as well as standards for loading areas when required.

In addition, clear and objective standards should be developed for residential uses, consistent with state law. A discretionary path should also be provided.

In all districts there shall be provided at the time of erecting new structures, or at the time of enlarging, moving, or increasing of capacity (by creating or adding dwelling units, commercial or industrial floor space, or seating facilities) or at the time of a change of use, minimum off-street parking space, other than in required front yards or required side yards along flanking streets of corner lots, with adequate provision for ingress and egress to the street, in accordance with the requirements of the following sections. The exterior storage or display of vehicles for sale or awaiting repair or pickup at a vehicle repair shop shall not be required to meet the provision for off-street parking, but shall be regulated under the provisions for exterior storage and/or display.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.069 DESIGN STANDARDS.

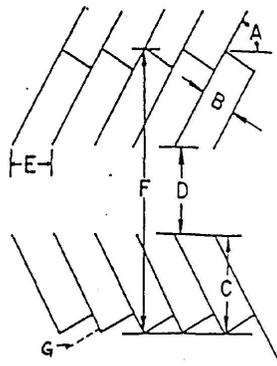
(A) Generally.

(1) When reviewing design as part of a permit review for any land use action or development, the Planning Commission may impose conditions including:

- (a) Controlling the location and number of vehicle access points and;
- (b) Increasing the street width or requiring street dedication.

(2) All off-street parking lots shall be designed in accordance with city standards for stalls and aisles as set forth in the below drawing and table.

	a	b	c	d	e	f	g
45°	8.5'	17.5'	13.0'	12.0'	48.0'	2.0'	
	9.0	17.5	12.0	12.7	47.2	2.0	
	9.5	17.5	11.0	13.4	46.0	2.0	
	10.0	17.5	11.0	14.1	46.0	2.0	
60°	8.5'	19.0'	18.0'	9.8	56.0'	2.5'	
	9.0	19.0	16.0	10.4	54.0	2.5	
	9.5	19.0	15.0	11.0	53.0	2.5	
	10.0	19.0	14.0	11.6	52.0	2.5	
75°	8.5'	19.5'	25.5'	8.8'	64.0'	2.5'	
	9.0	19.5	23.0	9.3	62.0	2.5	
	9.5	19.5	22.0	9.8	61.0	2.5	
	10.0	19.5	21.0	10.3	60.0	2.5	
90°	8.5'	18.5'	28.0'	8.5'	65.0'	3.0	
	9.0	18.5	26.0	9.0	63.0	3.0	
	9.5	18.5	25.0	9.5	62.0	3.0	
	10.0	18.5	24.0	10.0	61.0	3.0	



- A Parking Angle
- B Stall Width
- C Stall Depth (no bumper overhang)
- D Aisle Width Between Stall Lines (5)
- E Stall Width Parallel to Aisle
- F Module Width (no bumper overhang)
- G Bumper Overhang

Note:

- (1) For 1 row of stalls use "C" plus "D" as minimum bay width.
- (2) Public alley width may be included as part of dimension "D", but all parking stalls must be on private property, off the public right-of-way.
- (3) For estimating available parking area, use 350 sq. ft. per vehicle for stall, aisle and access areas.
- (4) The stall width for self-parking of long duration is 8.6'; for higher turnover self-parking is 9.0'; and for supermarkets and similar facilities is 9.5 - 10.0'.
- (5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24'. The minimum aisle width for emergency vehicle access (one-way traffic) is 20'.
- (6) Where appropriate bumper overhang area is provided (extruded curbs), "G" can be subtracted from "C" to determine stall depth. Dimensions of required recreational vehicle spaces are 10" x 25".

(B) Specifically.

- (1) For 1 row of stalls use "C" plus "D" as minimum bay width.
- (2) Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right-of-way.

(3) For estimating available parking area, use 350 square feet per vehicle for stall, aisle, and access areas.

(4) The stall width for self-parking of long duration is 8.6 feet; for higher turnover self-parking, is 9.0 feet; and for supermarkets and similar facilities is 9.5 to 10.0 feet.

(5) The minimum aisle width for 2-way traffic and for emergency vehicle operations area is 24 feet. The minimum aisle width for emergency vehicle access (1-way traffic) is 20 feet.

(6) Where appropriate bumper overhang area is provided (extruded curbs), "G" can be subtracted from "C" to determine stall depth. Dimensions of required recreational vehicle spaces are 10 feet by 25 feet.

(a) *Parking space plans.* No building permit shall be issued until plans are presented that show property that is and will remain available exclusively for off-street parking. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this chapter. Reduction of the amount of required off-street parking shall be considered a violation of this chapter. Parking plans shall be drawn to scale and shall delineate parking spaces, drives and aisles, bumper rails, and other features required by this chapter.

(b) *Parking space location.* Off-street parking facilities may not be located in a required front yard or street side yard setback area and shall be located as herein specified. Where a distance is specified, the distance shall be the distance measured from the nearest point of the parking facility to the nearest point of the building, which the facility is required to serve.

1. For all single-family dwelling structures, including manufactured homes and motel - on the same lot with the building they are required to serve.

(Am. Ord. passed 8-13-1996)

2. For rooming houses and apartment houses - within 100 feet of the building they are required to serve.

3. For uses other than those specified above - within 200 feet of the building they are required to serve.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2011-04-02, passed 4-12-2011) Penalty, see § 151.999

§ 151.070 SURFACING.

All off-street parking spaces and driveways shall be hard surfaced with concrete, asphaltic cement, or similar surface, which is resistant to dust, and mud. Type and thickness of this hard surface must be approved by the City Engineer.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.071 BUMPER RAILS.

All required off-street parking spaces, except those for single-family residences, must be equipped with bumper rails located in such a manner as to prevent vehicles from striking landscaping, fences, buildings, or walls, or from overhanging their spaces in a manner which might obstruct aisles, walks, or other spaces or property.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.072 ACCESS AND MANEUVERING.

(A) Groups or more than 4 off-street parking spaces shall be served by a driveway or aisle so that no backing movements or other maneuvering within a street other than an alley will be required.

(B) Service drives or aisles to off-street parking areas shall be designed and constructed to facilitate the flow of traffic and to provide maximum safety to pedestrians and vehicular traffic on the site.

(C) Service drives or aisles shall be clearly and permanently marked and defined through the use of bumper rails, fences, buildings, walls, paintings, or other appropriate markers and shall not be considered as parking spaces.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.073 LANDSCAPING.

(A) All parking lots designed to accommodate 5 or more vehicles shall be developed with at least 5% of any uncovered parking area in plantings or other landscaping as approved by the (City Council) City Planner.

(B) The landscaping or plantings shall be located in defined planting areas evenly distributed throughout the parking area.

(C) Required planting areas shall have a width of not less than 3 feet.

(D) Required landscaping shall be continuously maintained.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.074 ENCLOSURE AND SCREENING.

(A) Any portion of an off-street parking area, other than that for a single-family residence, which adjoins a residential district shall be screened from the adjoining residential area by a sight-obscuring fence having a minimum height of 6 feet, and/or by a dense evergreen landscape screen which attains a height of at least 6 feet within 2 growing seasons.

(B) Any off-street parking area, other than that for a single-family residence, which adjoins a public street shall be fenced with a railing, rail fence, evergreen hedge, wall, or other continuous barricade of harmonious material and design at least 8 inches and no more than 42 inches in height, except for necessary access drives or aisles.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.075 NUMBER OF REQUIRED SPACES.

Comment: Regarding the number of required spaces, some codes provide a graduated standard for multifamily dwellings, requiring fewer parking spaces for smaller (one-bedroom or studio) apartments and more parking for apartments with two or three bedrooms. However, the relationship between the size of an apartment, or the number of bedrooms, is not always a good indicator of parking demand, which is more sensitive to location (e.g., proximity to frequent

transit) and demographics (e.g., age of residents, household size, etc.). The suggested standard of one space per dwelling unit is on the low end and assumes the property is not well served by transit. Housing developers can always choose to provide more or less parking based on projected needs, and pursuant to the parking analysis option.

(A) *Generally.* Required off-street parking spaces are as follows. Where more than 1 standard applies, the greater number of spaces shall be required.

(B) *Specifically.*

- (1) Residential structure - 2 spaces for each dwelling unit;
 - (2) Rooming and lodging house - 1 space for each guest room;
 - (3) Auto court, motel, hotel - 1 space for each sleeping unit tourist home guest room, or suite;
 - (4) Hospital, nursing home - 1 space for each 3 beds plus 1 medical institution providing additional space for each employee overnight care or treatment;
 - (5) Theater, auditorium, church - 1 space for each 4 seats or 1 for each or similar enclosed place 300 square feet of assembly gross floor area;
 - (6) Stadium, sports arena - 1 space for each 6 seats similar open assembly area;
 - (7) Library - 1 space for each 300 square feet of gross floor area;
 - (8) Dance hall, skating rink - same as above;
 - (9) Bowling alley - same as above;
 - (10) Medical or dental clinic - same as above;
 - (11) Bank, business - 1 space for each 400 square feet of professional office with on-site gross floor area customer services;
 - (12) Office not providing customer services on premises - 1 space for each employee;
 - (13) Mortuary - 1 space for each 4 seats in chapel;
 - (14) Warehouse, storage - 1 space for each 700 square feet of wholesale business gross floor area;
 - (15) Food and beverage place with 1 space for each 300 square feet of sale and consumption on the gross floor space area plus 1 space premises for each employee;
 - (16) Retail store, supermarket - 1 space for each 400 square feet of department store and personal floor area plus 1 space for each service shop employee;
 - (17) Service and repair shop and 1 space for each 1,000 square feet of retail store handling bulky gross floor area plus 1 space for merchandise such as automobiles, each employee furniture and major appliances;
 - (18) Manufacturing uses, testing - 1 space for each employee on the research, processing or shift, or 1 space per 700 square feet of gross assembly uses floor area;
 - (19) Roadside stands - minimum of 4 spaces; and
 - (20) Schools, grades 10 to 12 - 1 space per employee plus 1 space for each 6 students.
- (Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.076 OFF-STREET LOADING; POLICY.

No building or structure subject to the use requirements of this section shall be erected, nor shall any such existing building or structure be altered in any district so as to increase its gross floor area to an amount exceeding 25% of its existing gross floor area at the time of passage of this chapter, nor shall a change of use occur without prior provisions for off-street loading space in conformance with the requirements of this section.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.077 DESIGN STANDARDS.

Required off-street loading space shall be provided in berths which conform to the following minimum specifications.

(A) Type "A" berths shall be at least 60 feet long by 12 feet wide by 15 feet high, (inside dimensions), with a 60-foot maneuvering apron.

(B) Type "B" berths shall be at least 30 feet long by 12 feet wide by 14 feet 6 inches high, (inside dimensions), with 30-foot maneuvering apron.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.078 NUMBER OF REQUIRED SPACES.

The following numbers and types of berths shall be provided for the specified uses. The uses specified below shall include all structures designed, intended, or arranged for the use. See Appendix G at the end of this chapter.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.079 CITY MAY REQUIRE TRAFFIC IMPACT ANALYSIS.

(A) The city may require a traffic impact analysis (TIA) prepared by a qualified professional to determine access, circulation, and other transportation requirements in conformance with TIA results. TIA's shall be required for all proposed development that will generate more than 100 AM or PM peak hour trips per day or 600 Average Daily Trips. Trip calculation shall be based upon *Trip Generation, 8th Edition (2008)* published by the Institute of Transportation Engineers.

(B) *Amendments that affect transportation facilities.* Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility. This shall be accomplished by one of the following:

(1) Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or

(2) Amending the Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or,

(3) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or

(4) Amending the planned function, capacity or performance standards of the transportation facility; or

(5) Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided. (Ord. 2011-04-02, passed 4-12-2011)

§ 151.080 WHEN TRAFFIC IMPACT STUDY IS REQUIRED; PREPARATION.

The purpose of this section of the code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the city to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a traffic impact analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a traffic impact analysis; and who is qualified to prepare the study.

(A) *When a traffic impact study is required.* The city or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use or a change in access. A TIA shall be required when a land use application involves one or more of the following actions:

(1) A change in zoning or a plan amendment designation;

(2) Any proposed development or land use action that a road authority states may have operational or safety concerns along its facility(ies);

(3) An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more; or

(4) An increase in peak hour volume of a particular movement to and from the state highway by 20% or more; or

(5) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or

(6) The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the state highway creating a safety hazard; or

(7) A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

(B) *Traffic impact study preparation.* A traffic impact analysis shall be prepared by a professional engineer in accordance with the requirements of the road authority. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

(Ord. 2011-04-02, passed 4-12-2011)

SPECIAL USES AND STANDARDS

§ 151.085 MEDICAL MARIJUANA AND RECREATIONAL MARIJUANA.

Comment: Consider moving the definitions in this section to the definitions sections of the zoning code. Review for compliance with most up to date requirements of ORS pertaining to marijuana laws.

(A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MARIJUANA. All parts of the plant of the genus *Cannabis* family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin as currently defined by state law or as may from time to time be amended. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination.

MARIJUANA FACILITY or **FACILITY.** Any facility licensed by the state of Oregon to sell marijuana. The term includes both facilities that are registered by the Oregon Health Authority to sell, distribute, transmit, give, dispense or otherwise provide medical marijuana pursuant to O.R.S. Chapter 475, and facilities that are licensed by the Oregon Liquor Control Commission to sell or distribute marijuana for recreational purposes. A **FACILITY** includes the real property on which the use is proposed or situated and all buildings or other structures on the property used for the storage, distribution, sale or dissemination of marijuana.

(B) *Applications.* An application for a marijuana facility shall comply with all applicable land use review procedures set forth in § 151.170. Applications for all new marijuana facilities and modifications or expansions of existing marijuana facilities shall comply with the substantive requirements of the underlying zone, the standards of this section and any other applicable standards set forth in the Banks Code of Ordinances.

(C) *Standards.* The following standards shall apply to the establishment, location and operation of all marijuana facilities in the city:

(1) The facility shall be licensed or otherwise registered by the state and at all times shall be in good standing pursuant to state law and any terms or conditions of the facility's state-issued license. The applicant, operator, owner and person in charge of the facility shall also possess any required state license or registration needed to operate the facility and shall be in good standing at all times while operating the facility.

(2) The facility shall meet applicable state and local laws, including but not limited to, building and fire codes, including the payment of all fines, fees and taxes owing to the city.

(3) The facility shall not manufacture or produce on-site any extracts, oils, resins or similar derivatives of marijuana and shall not use open flames or gases in the preparation of any products.

(4) Marijuana shall not be smoked, ingested or otherwise consumed on the premises of the facility.

(5) The facility shall provide for the secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the facility's exterior refuse containers.

(6) The facility shall not be co-located on the same tax lot or within the same building with any marijuana grow site or with a smoke shop where tobacco smoking is allowed.

(7) A facility may only operate in the C General Commercial District or the I Industrial District as designated by the official zoning maps of the city.

(8) A facility shall not be located within the buffers specified in this section. Distances shall be measured as a straight line from the closest point of the property on which the facility is located to the closest point of the property on which the buffered use is located:

- (a) One thousand feet from any public or private school; and
- (b) Five hundred feet from any public or private park or library;
- (c) One thousand feet from another marijuana facility; and
- (d) Four hundred feet from any residentially zoned property.

(9) Signage for the marijuana facility shall not include logos or illustrations of marijuana leaves and shall emphasize identification of the facility without drawing undue attention.

(10) The facility shall not sell or dispense marijuana in an edible form.

(11) No minor shall be allowed on the premises unless the minor is a medical marijuana qualifying patient and accompanied by a parent, guardian or caregiver whose purpose is to procure the minor's medical marijuana. No minors are allowed on the premises of a recreational marijuana facility.

(12) Sales or any other transfers of marijuana products must occur completely inside the facility building and must be conducted only between the facility operator and the customer. There shall be no walk-up or drive- through service.

(13) The hours of commercial operation for the facility shall be limited to 8:00 a.m. until 5:00 p.m. Monday through Friday.

(14) A change in use (including a rezone) of a neighboring property within any of the buffer distances specified in this section after a permit has been issued for a facility shall not result in the facility being in violation of this section.

(Ord. 2015-06-02, passed 7-14-2015)

NONCONFORMING SITUATIONS

§ 151.095 NONCONFORMING SITUATIONS.

Comment: This section is relatively new and updated as part of the 2014 update. Review to see if any changes in Banks warrant edits to the chapter.

(A) *Purpose and applicability.* This chapter provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards ("non-conforming situations"). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections as follows:

- (1) Non-conforming uses (e.g., uses not allowed in zone) are subject to § 151.095(B);
- (2) Non-conforming developments (e.g., structure does not meet minimum setbacks) are subject to § 151.095(C); and
- (3) Non-conforming lots (e.g., lot is smaller than minimum area standard) are subject to §

151.095(D).

(B) *Non-conforming use.* Where a use of land exists that would not be permitted under the current Code but was lawful at the time it was established, the use may continue, provided it conforms to the following standards:

(1) *Limited expansion of non-conforming use.* Expansion of a non-conforming use shall not exceed 35% percent of the use, and not more than 35% of the lot area, whichever is less, which existed as of [cutoff date]. Expansion of a non-conforming use requires approval of a conditional use permit under § 151.115.

(2) *Location of non-conforming use.* A non-conforming use shall not be moved in whole or in part from 1 lot to another lot, except as to bring the use into conformance with this Code.

(3) *Discontinuation or abandonment of non-conforming use.* A non-conforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than 12 months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the 12 month period, a use is discontinued upon the first occurrence of any 1 of the following:

(a) The date when the use of land is physically vacated;

(b) The date the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods/stock, or office equipment, or the disconnection of telephone or utility service;

(c) The date of termination of any lease or contract under which the non-conforming use has occupied the land;

(d) The date a request for final reading of water and power meters is made to the applicable utility districts;

(e) The date when the owner's utility bill or property tax bill account became delinquent; or

(f) Where data for events listed in divisions (a) through (e), above, is not available, the date of an event similar to those listed in divisions (a) through (e), above, as determined by the Planning Commission.

(4) *Application of code criteria and standards to non-conforming use.* Once the city deems a use abandoned pursuant to § 151.095(B), any subsequent use of the subject lot shall conform to the current standards and criteria of this Code; the prior use shall not be allowed to resume, in whole or in part, under the same or different ownership/management, and any such activity is a violation of this Code.

(5) *Extension of non-conforming status for discontinued use.* A non-conforming use that is discontinued shall not be considered abandoned where, through administrative land use approval, the Planning Commission grants an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the 6-month period of discontinuance.

(C) *Non-conforming development.* Section 151.095(C) regulates non-conforming development. Non-conforming development includes situations where a development exists on the effective date of adoption or amendment of this Code that could not be built under the terms of the Code, for example, by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction or requirement. If the development was lawful when constructed, it may remain on the site so long as it remains otherwise lawful and complies with the following regulations:

(1) *Expansion.* Any expansion of a non-conforming development shall not exceed 30% of the subject building area or development area, as applicable; for example, such area may include floor area or other surface area, paving, parking spaces, landscaping, outdoor storage, signage, lighting, or other developed areas that existed as of [effective date of new code]. Expansion of a non-conforming development requires approval of a conditional use permit under § 151.115.

(2) *Other alterations.* A non-conforming development shall not be enlarged or altered in a way that increases its non-conformity. A development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction conformity.

(3) *Destruction.* Should a non-conforming development or non-conforming portion of development be destroyed by any means to an extent more than 50% of its current value as assessed by the Washington County Assessor, it shall be reconstructed only in full conformity with this Code. This does not preclude the reestablishment of a nonconforming use after fire or other catastrophe. See also, § 151.095(B).

(4) *Roadway access.* The owner of a non-conforming driveway approach or access to a public street or highway, upon receiving approval from the applicable roadway authority, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the roadway authority.

(5) *Relocation or removal.* Once a non-conforming structure, or a portion thereof, is moved to a different lot, it shall thereafter conform to current Code standards.

(D) *Non-conforming lot.* A legal lot or lot of record, as provided by § 151.007, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone subject to other requirements of the zone; provided that if the lot does not meet the minimum area requirement, residential use shall be limited to a single-family dwelling.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. passed 8-13-1996; Am. Ord. 2014-05-01, passed 5-13-2014) Penalty, see § 151.999

§ 151.096 GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS.

Comment: Consider if Section 151.096 is still needed; it is outdated.

(A) If a property ownership, consisting of the entire contiguous land holdings held in a single ownership at the time of passage of this chapter, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirement of the zone.

(B) The record of ownership as recorded in the office of the County Clerk at the time of passage of this chapter shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provisions of this chapter became applicable to the land concerned.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.097 GENERAL EXCEPTIONS TO FRONT YARD REQUIREMENTS.

Comment: Consider if Section 151.097 is still needed; it appears outdated.

(A) *Generally.* The following exceptions to front yard requirements are authorized for a lot in any zone.

(B) *Exceptions.*

(1) If there are buildings on both abutting lots, which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

(2) If there is a building on 1 abutting lot which is within 100 feet of the lot, and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard depth.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.098 GENERAL EXCEPTION TO BUILDING HEIGHT LIMITATIONS.

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this chapter.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.099 PROJECTIONS FROM BUILDINGS.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues may project not more than 24 inches into a required yard.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.100 AUTHORIZATION TO GRANT OR DENY VARIANCES.

Comment: This section is relatively new and updated as part of the 2014 update. Review to see if any changes in Banks warrant edits to the chapter.

A section should be added to this chapter to authorize adjustments to code standards. Adjustments are minor modifications to code standards that are intended to provide reasonable flexibility for planned land uses and development. Examples include allowing up to a [10-20] percent reduction to a minimum setback, up to a [10-20] percent decrease to a minimum lot area, etc. Specific criteria applies, similar to that of a variance in that an applicant has to demonstrate compliance. Variances differ in that a variance is greater than the percentages outlined in the modification standards.

The Planning Commission 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 the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission 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.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2014-05-01, passed 5-13-2014)

§ 151.101 CRITERIA FOR GRANTING A VARIANCE.

The Planning Commission through the quasi-judicial review procedure may approve a variance upon finding that it meets all of the following criteria:

- (A) The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses;
 - (B) The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
 - (C) The need for the variance is not self-imposed by the applicant or property owner. For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant;
 - (D) The variance does not conflict with other applicable city policies or regulations;
 - (E) The variance will result in no foreseeable harm to adjacent property owners or the public;
- and
- (F) All applicable Building Code requirements and engineering design standards shall be met.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2014-05-01, passed 5-13-2014)

§ 151.102 PROCEDURE FOR VARIANCE APPLICATION.

The procedure for a variance shall be as provided in §§ 151.170*et seq.*
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2014-05-01, passed 5-13-2014)

CONDITIONAL USES

§ 151.115 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

(A) The purpose of conditional use review is to allow the proper integration into the community of uses, which may be suitable only on certain conditions and at certain locations due to the special characteristics of these uses.

(B) A conditional use listed in this chapter may be permitted, enlarged, or altered only upon authorization of the Planning Commission, in accordance with the standards and procedures of this subchapter.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.116 REVIEW CRITERIA FOR CONDITIONAL USE APPLICATIONS.

(A) *Generally.* Conditional use applications will be approved if the following criteria have been met.

(B) *Criteria.*

(1) The proposed conditional use will comply with the requirements of the district within which the site is located and with the additional provisions of §§ 151.060*et seq.*, except as may be provided for specific uses under the provisions of §§ 151.118 through 151.122.

(2) The proposed use will not alter the overall character of the surrounding area, and will be compatible with its surroundings in terms of size, design, operating characteristics, and off-site impacts.

(3) The transportation system is capable of supporting the proposed use, and adequate access and parking space can be provided to accommodate traffic expected to be generated by the use.

(4) Public facilities (i.e. water supply, sewer service, storm water disposal, police and fire protection) are capable of supporting the proposed use.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.117 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

(A) The procedure for taking action on a conditional use application shall be as provided in §§ 151.170*et seq.*

(B) In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified in § 151.118, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area or the city as a whole. These conditions may include the following:

- (1) Increasing the required lot size or setback dimensions;
- (2) Limiting the height, size, or location of buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the street width or requiring street dedication;
- (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) Regulating operating hours (time) for certain activities;
- (9) (Minimum landscape and) regulating amount, type, location, and maintenance of any required landscaping;
- (10) Specifying a time period within which the proposed use shall be developed; and

(11) Requiring preservation of natural features.

(C) Approved conditional uses and uses existing prior to the effective date of this chapter and now classified in this chapter as a conditional use must apply for a new conditional use permit prior to any change in the use or in lot area, or alteration or enlargement of any structure. The Planning Director may waive this requirement for minor alterations, i.e. those that will have no impact on neighboring properties and/or the general public.

(D) If the Planning Commission deems it necessary, it may require that the applicant for a conditional use furnish to the city a performance bond up to, and not to exceed, the value of the cost of the required improvements in order to assure that the conditions imposed are completed in accordance with the plans and specifications as approved by the Planning Commission, and that the standards established in granting the conditional use are observed.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.118 STANDARDS GOVERNING SPECIFIC CONDITIONAL USES.

In addition to or in lieu of the standards in § 151.116, the following uses are to meet special conditions.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

Comment: Sections 151.119 Natural Resource Extraction, 151.020 Auto Wrecking and Junk Yards, 151.121 Manufactured Home Parks, and 151.122, Home Occupations, should be in one chapter called Special Use Standards. Other special uses found throughout, for instance Marijuana Uses, should also be moved to a special use section for better organization and usability of the code.

Special uses are those that due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. The standards may differ from the development standards established for other uses in the same zoning district. Special use standards should also be developed for drive-through uses, daycare, residential care facilities, temporary uses, bed and breakfast inns, to name a few. The permitted use tables would designate an "S" for all uses subject to special use standards.

§ 151.119 NATURAL RESOURCE EXTRACTION.

(A) The use of premises in any district for the excavation, mining, extraction, or removal of stone, sand, gravel, clay, or other natural deposits may only be authorized by the Planning Commission after public hearing.

(B) A conditional use may be authorized by the Planning Commission for the periods as it deems consistent with the public health, safety, and general welfare, and subject to the following provisions.

(1) Plans submitted by the applicant for such excavations shall consist of a topographic map with such cross-sections as are necessary to adequately show the topography of the property in question, the extent of the area to be mined, any natural features and its relation to

streets and surrounding property, together with a similar map showing the extent of the proposed excavation and the contours of the ground after the removal of the material. In addition, the applicant must submit a narrative describing any impact the excavation may have on surrounding properties and by any improvements or natural features existing at or near the site. Issues to be addressed include noise, dust, traffic, water quality, and other issues specific to the site.

(2) A copy of each map and the narrative shall be submitted to the City Planner who shall report to the Planning Commission his or her findings regarding the effect of the intended excavations upon streets and other improvements, either existing or contemplated, and upon all properties within the area of influence of such excavations.

(3) Before approving an application, the Planning Commission may require that the applicant enter into an appropriate agreement with the city for reclamation of such areas to suitable use after completion of excavations, and that an adequate performance bond or other guarantee be furnished covering the cost of restoration or other work.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.120 AUTO WRECKING YARDS OR JUNK YARDS.

In addition to such other requirements as the Planning Commission may stipulate in authorizing auto wrecking yards or junk yards, the following provisions shall be imposed:

(A) Minimum lot area - 1 acre;

(B) Minimum building setback distance - front yard, 30 feet; rear yard, 25 feet; side yard, 25 feet, except on corner lots, 30 feet;

(C) Minimum fence setbacks - front yard, 25 feet; rear yard, 5 feet; and side yard, 5 feet;

(D) Fences:

(1) A sight-obscuring fence shall be constructed to completely enclose the wrecking or junkyard. The fence shall be painted 1 color and kept in good repair. It shall be the responsibility of the occupant to maintain the fence;

(2) Front yard fence height - minimum height of 6 feet. However, when such front yard is fronting on any state primary or secondary highway, the fence height shall be a minimum of 8 feet; and

(3) Side or rear yard fence height - minimum of 6 feet.

(E) Exterior storage:

(1) All storage shall be within the fenced area; and

(2) At no time shall any items be piled higher than the fence.

(F) Notwithstanding the above regulations, all auto wrecking yards and junk yards must comply with all state regulations pertaining to this type of use.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.121 MANUFACTURED HOME PARK.

(A) Specific standards for the development of Manufactured Home Parks are included because a Manufactured Home Park is a unique type of residential use which deserves special consideration due to its impact unto the community, its roads and utilities. These standards are

instead of the standards of § 151.116.

(B) Minimum area - 1 acre.

(C) Access drives shall be provided to each manufactured home space, shall be continuous unless provided with adequate turn-around area or cul-de-sac, and shall have minimum width of 20 feet. Each park shall have a principal access drive of not less than 36 feet for an exterior connection to the public street. Two, 20-foot wide drives may be substituted for the 36-foot drive provided they are limited to 1-way traffic and parking is (restricted to 1 side) prohibited. All internal roads shall be paved.

(D) Walkways, not less than 2 feet in width, shall be provided from each manufactured home space to service buildings and along least 1 side of all access drives and internal roads.

(E) Except as required for vision clearance, the outer perimeter of each park shall be improved with:

(1) A sight-obscuring fence or wall not less than 5 nor more than 6 feet in height;

(2) Maintained evergreen landscaping that is at least 10 feet in depth, will mature within 3 years, and reach at least 5 feet in height at maturity; or

(3) A combination of divisions (E)(1) and (E)(2) above.

(F) Unless in conflict with state laws and regulations, all areas covered by manufactured homes and accessory buildings shall be paved with asphalt or concrete, or covered with permanently contained crushed rock.

(G) All open areas, except as otherwise specified herein, shall be suitably landscaped according to plans and specifications approved by the Planning Commission. The areas shall be continuously maintained.

(H) Each manufactured home space shall be improved with 1 patio of concrete or other suitable impervious material, having a minimum area of 150 square feet and 1 crushed rock or better surfaced mobile home pad having a minimum area equal to that of the manufactured home which will be located on the space. In addition each mobile home site shall have 1 parking space, either a carport or paved parking area having a minimum area of 100 square feet.

(I) A minimum of 200 square feet of recreation area for each manufactured home space shall be provided in 1 or more locations within the manufactured home park. The minimum size of each required recreation area shall be 5,000 square feet.

(J) A centralized storage area for boats, campers, camping trailers, and automobiles shall be provided in each manufactured home park. The storage area shall contain a minimum of 160 square feet for each manufactured home space and be enclosed by a sight-obscuring fence. Roads, carports, parking areas, yards, and patios shall not be used for long-term parking or storage of trailers, boats, campers, or other recreational vehicles.

(K) Permanent accessory structures located within any manufactured home space shall be used only as carports or for storage purposes. (Storage buildings shall have a maximum floor area of 25 square feet). Carports shall not exceed 800 square feet in area unless designed to serve 2 adjacent manufactured home spaces in which case they may be 1,600 square feet in area. Storage structures and carports shall be located not less than 6 feet from any manufactured home and shall be subject to all of the applicable permits and building codes of the City of Banks. A storage building (and carport) shall be provided on each manufactured home space.

(L) Signs are limited to 1 identification sign with a maximum area on 1 side of 12 square

feet. The a sign may be indirectly illuminated, but shall not contain exposed neon or similar tubing and shall not flash, rotate, or move in any way. Design approval of the sign is subject to review of the Planning Commission to assure that it will be harmonious with the neighborhood.

(M) All utilities, i.e., sewer, water, natural gas, electricity, telephone, and television cable shall be underground in locations approved the City Engineer. Each manufactured home space shall be equipped with connections for running water, electricity, and sanitary sewer.

(N) All residents shall execute leases, which have been approved by the city and contain provisions for the assumption of possession of abandoned manufactured homes by the manufactured home park management.

(O) Prior to location of a mobile home in a manufactured home park, the owner or occupant shall establish to the satisfaction of the superintendent of building inspection that the manufactured home is in a condition that conforms to 1 of the following construction standards.

(1) A manufactured home constructed on or after 9-1-1969, shall conform either to standards in effect in Oregon at the time of construction or Oregon standards in effect at the time entry into the park is to occur. Units built between 9-1-1969 and 6-15-1976 shall exhibit the Oregon Department of Commerce Insignia of Compliance. Units built thereafter shall meet the H.U.D. Federal Manufactured Home Safety Standards dated 6-15-1976.

(2) Manufactured homes, constructed prior to 9-1-1969, shall be in a condition that is not less than the substantial equivalent of the above standards.

(P) The services of an architect, a landscape architect, and an engineer, all licensed to practice in Oregon, shall be employed in the preparation and execution of all plans. Upon proof by the applicant that the scope of the proposal does not require the services of an architect, the Planning Director may waive that requirement.

(Q) In the event of denial, applications may be resubmitted within 1 year of the denial, provided the Planning Director finds the denial was based on internal (on-site) factors and new plans have been submitted which are sufficiently modified to warrant consideration by the Planning Commission.

(R) Notwithstanding the above regulations, manufactured home parks must comply with all state regulations pertaining to this type of use.

(S) An adequate number of fire hydrants shall be provided within the manufactured home park so that no mobile home space or structure within the park is more than 400 feet from a hydrant.

(T) Standard streetlights shall be installed at intervals of no more than 200 feet along all access drives and internal roads.

(U) Each manufactured home space shall be legibly numbered so that it may be easily found by emergency vehicles.

(V) A manufactured home located in a manufactured home park smaller than 3 acres shall have:

(1) A pitched roof, except that no standard shall require a slope of greater than a nominal 3 feet in height for each 12 feet in width.

(2) Exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community and which is comparable to the predominant materials used on dwellings on adjoining sites as determined by the Planning Commission.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. passed 8-13-1996; Am. Ord. 2013-06-01, passed 6-11-2013) Penalty, see § 151.999

§ 151.122 HOME OCCUPATIONS.

(A) *Generally.* Specific standards for home occupations in lieu of the conditional use criteria of § 151.116 are as follows.

(B) *Specifically.*

(1) No sign shall be used other than a nameplate not over 2 square feet in area.

(2) There shall be no display that will indicate from the exterior that the building is used for any purpose other than a residence.

(3) There shall be no outside storage of materials other than plant materials. No activities associated with the home occupation shall take place outdoors, with the exception of recreation in family day care.

(4) The building shall retain the characteristics and appearance of a residence.

(5) The home occupation shall not alter the residential character of the neighborhood.

(6) There shall be no paid employees other than family members.

(7) The activity shall occupy no more than 1/4 of the floor area of the primary structure, with the exception of family day care.

(8) The maximum number of persons which may be cared for in family day care is 5 adults or 12 children.

(9) Specifically prohibited, as a home occupation in a residential zone is the repair and assembly of all vehicles, equipment with an internal combustion engine, or large appliances.

(10) Delivery or pickup to a home occupation may not be made by a large truck.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989) Penalty, see § 151.999

§ 151.123 PRIVATE FAMILY BURIAL GROUND.

Private family burial grounds are not allowed in the city.
(Ord. 2014-05-01, passed 5-13-2014)

MASTER PLANNED DEVELOPMENTS

§ 151.135 PURPOSE.

The purposes of this subchapter are to:

(A) Implement the Comprehensive Plan and by providing a means for master planning large development sites as an alternative to piecemeal subdivision development;

(B) Encourage innovative planning that results in projects that benefit the community, for example, through greater efficiency in land use, improved protection of open spaces, transportation efficiency, and housing choices;

(C) Encourage housing options for a range of household sizes, incomes, and lifestyles;

- (D) Encourage mixed-use development and diversified employment opportunities;
 - (E) Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
 - (F) Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
 - (G) Encourage energy efficiency and improved air and water quality;
 - (H) Implement public facility master plans; and
 - (I) Provide flexibility in development standards, consistent with the above purposes.
- (Ord. 2014-05-01, passed 5-13-2014)

§ 151.136 APPLICABILITY.

The master planned development designation may be applied over any of the city's zoning districts. It is an option available to developers of land.
 (Ord. 2014-05-01, passed 5-13-2014)

§ 151.137 REVIEW AND APPROVALS PROCESS.

(A) *Review steps.* There are 3 required steps to master planned development approval, which may be completed individually or combined for concurrent review:

- (1) Application for master planned development concept plan approval;
- (2) Application for detailed development plan approval, which may include a preliminary subdivision plan; and
- (3) Application(s) for final development plan (e.g., final plat and/or site design review) approval.

(B) *Approval process.*

- (1) The master planned development concept plan shall be reviewed pursuant with the quasi judicial procedure in § 151.200, the submission requirements in § 151.139, and the approval criteria in § 151.140.
 - (2) The detailed development plan and preliminary subdivision plan shall be reviewed using the quasi judicial procedure in § 151.200 to ensure substantial compliance with the approved concept plan.
 - (3) Site design review applications for approved planned developments shall be reviewed using a quasi judicial procedure in § 151.200 to ensure substantial compliance with the approved concept plan.
 - (4) Steps 1 through 3, above, may be combined in any manner, so long as the decision-making sequence follows the above order. Notification and hearings may be combined.
- (Ord. 2014-05-01, passed 5-13-2014)

§ 151.138 MODIFICATIONS TO DEVELOPMENT STANDARDS.

The standards of the underlying zoning and §§ 151.060 through 151.064 may be modified through the master plan development process without the need for variance under §§ 151.100 through 151.102. In evaluating this criterion, the city decision making body shall consider

whether the proposal, on balance, exceeds the city's minimum requirements and provides greater public benefit than would otherwise occur under the base Development Code requirements. In evaluating public benefits, the city decision-making body shall apply the following criteria; the city may deny an application for Master Planned Development concept plan approval that does not meet all of the following criteria:

(A) *Comprehensive Plan*. The modification does not conflict with the Comprehensive Plan. A master planned development shall not exceed the maximum residential density permitted by the underlying zone.

(B) *Purpose and intent of Development Code*. The modification meets the purpose and intent of the Development Code section(s) to be modified, as determined by the Planning Commission; and

(C) *Public benefit*. The modification provides a public benefit greater than would occur under the standard code provisions, by 1 or more of the following:

(1) Greater variety of housing types, such as a mix of attached and detached housing, or a wider range of lot sizes, than would be allowed under the standard Development Code provisions;

(2) More open space or more usable open space than would be required under the standard Development Code provisions;

(3) Greater protection of natural features than would be required under the minimum code standards;

(4) Incorporation of natural features into subdivision design, or avoidance of natural hazards (e.g., geological hazards, stream corridor, or flood hazards) necessitating flexible lots sizes, cluster development plan, or other innovative design;

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

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

(7) Other public benefit, such as the provision of affordable housing.

(Ord. 2014-05-01, passed 5-13-2014)

§ 151.139 CONCEPT PLAN SUBMISSION.

(A) *Written submission requirements*. An application for a Concept Development Plan shall follow the submission requirements for a quasi judicial review under § 151.200, and shall include all of the following:

(1) A statement of planning objectives to be achieved by the master planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;

(2) A development schedule indicating the approximate dates when construction of the project and its various phases, if any, including public facilities, are expected to be initiated and completed;

(3) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development;

- (4) Narrative report or letter documenting compliance with the applicable approval criteria contained in § 151.140;
 - (5) Maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple; and
 - (6) Additional reports or studies prepared by qualified professionals, as required by the City Planning Official, to determine potential project impacts, mitigation, and assurances, including assurances of proposed public benefits under § 151.138(C).
- (B) *Plan submission requirements.* In addition to the written information described in division (A) above, the Concept Plan application shall include all of the following plans, exhibits and information:
- (1) Existing Conditions map, consistent with § 152.004;
 - (2) Conceptual Site Plan, including general land use plan, building envelopes, circulation plan, open space network, general utility connections and alignments, and other information necessary to convey the Concept Plan;
 - (3) Grading concept;
 - (4) Landscape concept, including plan for retention of existing vegetation and general planting areas;
 - (5) Architectural concept, including plans illustrating intended architectural styles, building heights, massing, and general materials;
 - (6) Sign concept plan, including locations, general size, style and materials of signs, such as entry monument and wayfinding signs, as applicable; and
 - (7) Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, private drives, if any, parking, and the like).
- (Ord. 2014-05-01, passed 5-13-2014)

§ 151.140 CONCEPT PLAN APPROVAL CRITERIA.

Comment: Consider revisiting 30% minimum open space requirement. Staff has heard from multiple developers that this percentage is too high and makes a project infeasible.

The city, in approving or approving with conditions a Concept Plan, shall make findings that all of the following criteria are met. The city must deny an application where not all of the criteria are met.

- (A) *Comprehensive Plan.* The proposal conforms to the Comprehensive Plan;
- (B) *Land division chapter.* Except as may be modified under § 151.138, all of the requirements for land divisions under Chapter 152, are met;
- (C) *Public facilities chapter.* The proposal shall demonstrate adequate public facility capacity to serve the proposed development including sewer, water, and the transportation system, except as may be modified under § 151.138;
- (D) *Open space.* Except as may be modified under § 151.138, master plans shall contain a minimum of 30% open space, which may be public, private, or a combination of public and private open space. Such open space shall be integral to the master plan and connect to a majority of the proposed residential lots. Plans shall provide space for both active and passive

recreational uses, and may include but are not limited to: neighborhood parks, pathways/trails, natural areas, plazas, and play fields. Open space areas shall be shown on the final plan and recorded with the final plat or separate instrument; and the open space shall be conveyed in accordance with one of the following methods:

(1) By dedication to the city as publicly owned and maintained open space. Open space proposed for dedication to the city must be acceptable to the Planning Commission with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide an environmental assessment), and approved by City Council based on budgetary, maintenance, and liability considerations; or

(2) By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions for maintenance and property tax payment acceptable to the city. The city through conditions of approval may also require public access be provided, i.e., where the open space is deemed necessary, based on impacts of the development, to meet public recreational needs pursuant to the Comprehensive Plan.

(E) *Modifications to standards.* Modifications to Code standards must conform to the criteria in § 151.138.

(Ord. 2014-05-01, passed 5-13-2014)

§ 151.141 EXPIRATION.

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

(B) *Expiration.* Except as provided by division (C), below, a concept plan shall become void 3 years after the date of approval if the applicant, or successor, has not filed with the city an application for detailed development plan and final plat approval in conformance with §§ 151.142 and 151.143.

(C) *Extension.* The city may grant extensions of the concept plan approval period, not to exceed 1 year per extension, provided that the extension request is made before expiration of the MPD approval, the applicant can show intent of applying for detailed development plan review within the 1-year extension period, and there have been no substantive changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.

(Ord. 2014-05-01, passed 5-13-2014)

§ 151.142 DETAILED DEVELOPMENT PLAN SUBMISSION.

Detailed development plan submittal requirements are determined based on the conditions of approval for the Concept Plan. At a minimum, the detailed development plan submittal shall meet the minimum requirements for final plat submission under § 152.008, and shall contain information demonstrating compliance with the Concept Plan. The detailed development plan and preliminary subdivision plan shall be reviewed using the quasi judicial procedure in § 151.200 to ensure substantial conformance to the approved Concept Plan.

(Ord. 2014-05-01, passed 5-13-2014)

§ 151.143 DETAILED DEVELOPMENT PLAN CRITERIA.

Approval of the detailed development plan shall be based upon a finding that the final plan substantially conforms to the Concept Plan, including any Concept Plan conditions of approval. Minor changes to the approved Concept Plan may be approved with the detailed plan where the Planning Commission finds that: (1) The modification is necessary to correct an error, or to address changes in circumstances beyond the applicant's control that have occurred since the date of project approval. Other changes must be reviewed as modifications under § 151.138. (Ord. 2014-05-01, passed 5-13-2014)

§ 151.144 SUBSEQUENT DEVELOPMENT REVIEWS.

Subsequent land use applications for the same project are reviewed by the Planning Commission processed as a quasi-judicial review. (Ord. 2014-05-01, passed 5-13-2014)

COMPREHENSIVE PLAN AND ZONING AMENDMENTS

Comment: Consider revising this entire section because it is outdated. Create a new section called Amendments to Zoning Map or Code and create standards and procedures for legislative and quasi-judicial amendments.

§ 151.155 AUTHORIZATION TO INITIATE AND APPROVE AMENDMENTS.

An amendment to the Comprehensive Plan text or map, and/or to the text or zoning map of this title may be initiated by the City Council, by the Planning Commission, or by application of a property owner or his or her authorized agent. The amendments may be necessary to continue to promote the public health, safety, convenience, and general welfare under changing conditions. The City Council may grant a zoning amendment according to the provisions of this subchapter.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.156 PROCEDURE.

(A) Unless part of a legislative action, the procedure for quasi-judicial comprehensive plan and / or zoning code text or map amendments shall be as specified in §§ 151.170*et seq.*

(B) When reviewing a comprehensive plan and/or zoning code text or map amendment, the Planning Commission may impose conditions including:

- (1) Controlling the location and number of vehicle access points, and;

(2) Increasing the street width or requiring street dedication.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2011-04-02, passed 4-12-2011)

§ 151.157 COMPREHENSIVE PLAN AND ZONING AMENDMENT CRITERIA.

(A) Quasi-judicial comprehensive plan and/or zoning amendment applications shall be approved if the following criteria have been met.

(B) The proposed change is consistent with and supportive of the Comprehensive Plan goals, objectives, and policies.

(C) The proposed change is compatible with the surrounding existing and planned land use pattern.

(D) Public facilities (i.e. transportation system, water supply, sewer service, storm water disposal, and police and fire protection) are capable of supporting the uses permitted in the proposed zone.

(E) The proposed change is consistent with the statewide planning goals.

(F) *Amendments that affect transportation facilities.* Except as provided in division (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 Banks Transportation System Plan. This shall be accomplished by one of the following:

(1) Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or

(2) Amending the TSP or Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or

(3) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or

(4) Amending the planned function, capacity or performance standards of the transportation facility; or

(5) Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

(G) *Exceptions.* Amendments to the Comprehensive Plan or land use regulations with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the Transportation System Plan may be approved when all of the following criteria are met:

(1) The amendment does not include property located in an interchange area, as defined under applicable law;

(2) The currently planned facilities, improvements or services are not adequate to achieve the standard;

(3) Development resulting from the amendment will, at a minimum, mitigates the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

(4) The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid further degradation to the facility. (Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2011-04-02, passed 4-12-2011)

§ 151.158 RECORD OF AMENDMENTS.

The City Recorder shall maintain records of amendments to the text and zoning map of the ordinance.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.159 LIMITATION ON REPLICATIONS.

No application of a property owner for an amendment to the text of this chapter or to a zone boundary shall be considered by the City Council within the 1-year period immediately following a previous denial of the 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.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

APPLICATION REVIEW PROCEDURES

Comment: The following section on application review procedures is based closely on the *Small Cities Model Code*. It should be reviewed for updates and consistency with state law. In addition, it should be organized around one chapter addressing general review procedures for all land use applications, site design review, land divisions, conditional use permits, modifications to approved plans, amendments to zoning map or code, adjustments and variances, etc.

One of the most important needs of the code update is a comprehensive site design review chapter. Banks needs a new chapter to approve various types of development. The new chapter should be designed to exempt minor projects from review and sets up thresholds for minor versus major projects, where a minor project would be reviewed by staff and a major project requires a public hearing. An example site design review chapter should look something like this:

Sections:

- 4.2.010 Purpose
- 4.2.020 Applicability
- 4.2.030 Review Procedure
- 4.2.040 Application Submission Requirements
- 4.2.050 Approval Criteria and Adjustments

4.2.060	Assurances
4.2.070	Compliance with Conditions, Permit Expiration, and Modifications

§ 151.170 GENERAL PROCEDURES.

(A) *Purpose.* This chapter establishes standard decision-making procedures for the review of land use and development applications, affording the public a means of participating in the local decision-making process in an efficient manner. Table 151.170 provides a key for determining the applicable review procedure for land use approvals in Banks.

(B) *Applicability of review procedures.* All land use and development permits and approvals in the city shall follow the procedures contained in this chapter. There are 4 types of permit/approval procedures as described below and as identified in Table 151.170.

(1) *Zoning clearance.* Zoning clearance is a ministerial review that applies to building permit reviews and tree cutting permits where no land use decision is required. The City Planning Official, or his or her designee, without public notice and without a public hearing, makes zoning clearance decisions. This procedure is used in applying city standards and criteria that do not require the exercise of discretion.

(2) *Administrative land use decisions (planning official review with notice).* Administrative land use decisions are for minor land use proposals, such as property line adjustments and Adjustments, where a public hearing is not required. Decisions are made by the City Planning Official, with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Planning Official may refer an administrative land use application to the Planning Commission for its review and decision in a public meeting.

(3) *Quasi-judicial land use decisions (Planning Commission or City Council hearing with notice).* Quasi-judicial land use decisions are for complex land use or development proposals, such as preliminary subdivision plans, conditional use permits, variances, site development plan reviews, planned developments, and small area zone changes (e.g., a single parcel). Quasi-judicial decisions involve the exercise of discretion but implement existing policies. The Planning Commission makes most quasi-judicial land use decisions, while others are made by City Council (e.g. zone change); both require a public hearing, and Planning Commission decisions may be appealed to City Council.

(4) *Legislative decisions (City Council hearing with applicable notice requirements).* Legislative decisions involve changes in city policy, such as Comprehensive Plan amendments, Zoning Map amendments affecting more than one parcel (or a large area), and changes to this Code. Reviews are considered by the Planning Commission, who makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

<p>Table 151.170 Summary of Approvals by Type of Review Procedure</p>
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Approvals*	Review Procedures	Applicable Regulations
Zoning Clearance Review	Administrative	Applicants are required to complete a Zoning Clearance before applying for any other permit or approval. See § 151.180
Annexation	Legislative	Banks Municipal, §§ 30.01 - 30.06
Code Interpretation	Quasi-Judicial	§ 151.005
Code Text Amendment	Legislative	§§ 151.155 - 151.159
Comprehensive Plan Amendment	Legislative	§§ 151.155 - 151.159
Conditional Use Permit	Quasi-Judicial	§§ 151.115 - 151.118
Home Occupation	Zoning Clearance	§ 151.122
Zoning District Map Change	Legislative or Quasi-Judicial	§§ 151.155 - 151.159
Property Line Adjustments, including Lot Consolidations	Administrative	§ 152.020
Legal Lot Determination	Administrative	§ 151.006
Non-Conforming Use or Structure, Expansion of	Administrative or Quasi-Judicial	§ 151.095
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat	Quasi-Judicial Administrative	§ 152.006 § 152.008
Site Plan Review	Quasi-Judicial	§§ 151.171 - 151.172
Subdivision or Replat of > 3 lots Preliminary Plat Final Plat	Quasi-Judicial Administrative	§ 152.006 § 152.008
Variance		
Variance	Quasi-Judicial	§§ 151.100 - 151.102

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. passed 8-13-1996; Am.

Ord. 2014-05-01, passed 5-13-2014)

§ 151.171 PROCEDURES FOR VARIANCE, CONDITIONAL USE, ZONE CHANGE, AND OTHER LAND USE APPLICATIONS.

When reviewing an applicant's request for a variance, conditional use, zone change, or other land use action, the Planning Commission may impose conditions including: controlling the location and number of vehicle access points, and; increasing the street width or requiring street dedication.

(A) A property owner may initiate a request for a variance, conditional use, zone change, or other land use approval required by this chapter, by filing an application with the City Recorder or Planning Director on a form prescribed by the Planning Commission.

(B) If more than 1 land use approval is required for 1 development project, the applicant may apply for all required approvals at 1 time.

(C) The application shall be accompanied by the drawings and statements as set forth in § 151.172, and the fee as set forth in § 151.173.

(D) The Planning Commission shall schedule a public hearing to take place within 60 days of receipt of a complete application, following public notice procedures set forth in § 151.174.

(E) The Planning Director shall perform a review of the application according to the provisions of § 151.175.

(F) The Planning Commission may recommend that the City Council approve, deny, or modify the application for a conditional use, or plan / zoning change. The Planning Commission may recommend that the City Council attach the conditions of approval. The Planning Commission may approve, deny, or modify an application for alteration and demolitions in the Historic Resource Overlay Zone, and for a variance, and may attach the conditions of approval as it finds necessary for implementing the purpose and provisions of this chapter and of the Comprehensive Plan.

(G) The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other persons or agencies it decides may have an interest in the application being considered. Upon recessing, the time, date, and place when the hearing is to be resumed shall be announced. The Planning Commission must make a final decision on the date of the hearing, or the date of the final hearing if there has been a recess. If no decision is issued consistent with this provision the application shall be deemed approved.

(H) At the next scheduled City Council meeting, the City Council shall hold a public hearing on the application. The Council may adopt or modify the recommendation of the Planning Commission. If the Council decision is different from the Planning Commission's recommendation, the Council shall adopt findings justifying its decision.

(I) Within 5 days after a decision has been rendered, the City Recorder or Planning Director shall provide the applicant and any persons requesting the notice with written notice of the decision of the Planning Commission or the City Council.

(J) A land use approval shall become effective on the fifteenth date after the date of final decision by the Planning Commission, unless the decision is appealed as provided in § 151.176.

(K) Pursuant to O.R.S. 227.178, the city shall complete final action on all land use actions, including local appeals, within 120 days of receipt of a complete application. The 120-day limit

may be waived by the applicant in writing.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2011-04-02, passed 4-12-2011)

§ 151.172 SUBMITTAL REQUIREMENTS.

(A) Applications for land use approvals must be accompanied by a written statement, which must include:

(1) A description of the proposed development address, legal description and ownership of the property; name, address, and phone number of the applicant; the type of approval requested;

(2) A discussion of how the application complies with the review criteria for that type of land use application;

(3) A discussion of external impacts the proposed development may have on surrounding properties in terms of noise, dust, traffic, storm drainage, waste disposal, and the like; and

(4) Any other information as may be required to understand the application.

(B) In addition, the applicant must submit site plans and drawings to scale showing the location and dimensions of the property and of existing and proposed structures; north arrow, scale; the relationship of the property to the surrounding area; the intended use of each structure; proposed parking areas, landscaping, access and circulation, signs, outdoor storage; and any natural features on the site.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.173 FILING FEES.

(A) The City Council shall establish by resolution, and may from time to time by resolution amend, a uniform schedule of fees to be paid at the time of filing any application requiring approval or action by the Planning Director, Planning Commission, or City Council under the provisions of the zoning code. In like manner, the City Council shall establish the fees to be paid for filing notice of appeal under the provisions of this code.

(B) The fees shall be for the purpose of helping to defray the costs of giving notice of hearing where required, and the expenses to the city in processing and investigating the applications and appeals. Copies of the fee schedule shall be kept at City Hall and shall be available for public inspection.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.174 PUBLIC NOTICE.

Comment: Consider adding a requirement for neighborhood contact prior to land use submittal. While Banks does not have any recognized neighborhood associations, it is still worthwhile to require developers meet with residents to work through potential design issues before the City begins processing a land use application and is subject to the 120-day clock. Notification requirements should address required radius, notice contents, meeting location, meeting

conduct and submittal requirements.

Also require applicants to post the site with notices for additional citizen involvement.

(A) *Mailed notice.* The city shall mail the notice of a public hearing. The records of the Washington County Assessor's Office are the official records for determining ownership. Notice of an application requiring public hearing or appeal hearing shall be given by the City Planning Official or designee in the following manner:

(1) At least 20 days before the hearing date, notice shall be mailed to:

(a) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;

(b) All property owners of record within 100 feet of the site;

(c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

(d) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;

(e) Any person who submits a written request to receive notice;

(f) For appeals, the appellant and all persons who provided testimony in the original decision; and

(g) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with O.R.S. 227.175.

(2) The City Recorder or designee shall have an affidavit of notice prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.

(3) At least 14 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the city. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

(B) The notice shall include a description of what is being proposed and:

(1) The property address and legal description;

(2) The criteria applicable to the request;

(3) The date, time, and location of the public hearing; and

(4) A statement that failure to raise an issue in person or by letter precludes appeal, and that failure to specify to which criteria the comment is directed precludes appeal based on that criterion.

(C) Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989; Am. Ord. 2011-04-02, passed 4-12-2011)

§ 151.175 INVESTIGATION AND REPORT BY THE PLANNING DIRECTOR.

The Planning Director shall review the application, coordinate and assemble comments from the public and applicable government agencies, and prepare a report summarizing the facts, findings, and conclusions regarding compliance with the review criteria for the application, and including a recommended decision. The report shall be submitted to the Planning Commission and the applicant at least 5 days before the scheduled public hearing on the application, and shall be made available for use by any interested party.
(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.176 APPEALS.

(A) Within 14 days of the date of a final decision by the Planning Director or Planning Commission authorized by this chapter, an appeal of the decision may be made to City Council.

(B) Appeals may be made by the applicant, the owner, or any other party who has participated in the public hearing either in person or in writing, by submitting comments on the specific land use application, directed at the applicable criteria.

(C) Notice of the appeal shall be filed with the City Recorder along with the prescribed according to § 151.173. The notice of appeal must include the appellant's name, address, and phone number and relationship to the land use application, and a statement giving the reasons for the appeal.

(D) The City Council shall schedule a public hearing on the appeal according to the procedural and notice requirements of §§ 151.171 through 151.174.

(E) A land use decision shall not become effective until the termination of any local appeal pending against it.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.177 TIME LIMIT ON LAND USE APPROVALS.

(A) Land use approvals, with the exception of zoning map or code amendments and planned unit developments, shall become void if within one year of the date of the final decision a building permit has not been issued and/or no substantial construction has taken place. The City Council may extend the validity of the approval for an additional period not to exceed 1 year on request.

(B) If a decision is appealed beyond the jurisdiction of the city, the 1-year expiration period will not begin until the appeal is terminated.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

§ 151.178 AUTHORIZATION OF SIMILAR USES.

(A) *Generally.* The Planning Commission may permit 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 this chapter. However, this section does not authorize the permission in a zone where it is not listed of a use specifically listed in another zone, or which is of the same general type as uses listed in another zone.

(B) *Building permits.*

(1) The homeowner or his or her authorized representative shall obtain a certificate authorizing Washington County to issue a building permit for a new dwelling. Application shall be made at the city and shall include the following items:

(a) Plot plan showing the dwelling and all other structures, including all exterior dimensions; building elevations drawings for all sides; information describing roofing and siding materials, foundation support systems and materials;

(b) A written statement signed by the applicant pledging compliance with the terms set by the City of Banks and all other conditions of this § 151.040; and

(c) Permit filing fee.

(2) An approved certificate to obtain a permit shall be issued within 10 days by the City of Banks after receipt of the required information indicated above.

(3) The certificate shall be denied when the applicant fails to provide the required information, and/or the proposed dwelling does not comply with the required codes specified herein.

(C) *Occupancy requirements.* Occupancy of the dwelling shall be governed by the building permit review procedure as administered by Washington County.

(D) *Building removal.* If the dwelling or other structures are removed from the property and not replaced with another structure within 6 months as evidenced by a building permit, the owner shall perform the following tasks unless otherwise authorized by the City of Banks:

(1) Remove any foundation and perimeter enclosures;

(2) Remove all accessories associated with the dwelling unit;

(3) Permanently disconnect and cap off all utilities including sewer, water, electricity, phone, cable television, and the like in the proper manner and time frame as may be specified by the utility agency; and/or

(4) In the event the owner fails to accomplish the required tasks as noted above, the City of Banks may perform the work and file a lien against the property for the cost to perform the work.

(E) *Building abandonment.* When a dwelling has been abandoned (not occupied) for a period of time which exceeds 5 or more years, the owner shall request an occupancy inspection and permit approved by the city building official prior to the dwelling being occupied again.

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

ZONING CLEARANCE

§ 151.180 ZONING CLEARANCE.

See § 151.170 for the purpose and applicability of zoning clearance.

(A) *Application requirements.*

(1) *Application forms.* Zoning clearance applications shall be made on forms provided by the City Recorder.

(2) *Application requirements.* Zoning clearance applications shall:

(a) Application form;

(b) Site plan or plot plan with sufficient detail for review and action;

(c) Other supporting information, as required; and

(d) City application fee.

(B) *Requirements.* Zoning clearance by the City of Banks is required prior to issuance of building permits.

(C) *Criteria and decision.* Zoning clearance review is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit. The Planning Official shall not issue zoning clearance where a project proposal conflicts with a code requirement. Where such conflicts occur, the Planning Official shall refer a request for zoning clearance to the Planning Commission for its interpretation.

(D) *Effective date.* Zoning clearance is final on the date it is issued by the Planning Official or Planning Commission. It is not an appealable land use decision as defined by O.R.S. 197.015. (Ord. 2014-05-01, passed 5-13-2014)

ADMINISTRATIVE LAND USE DECISIONS

§ 151.190 ADMINISTRATIVE LAND USE DECISIONS.

See § 151.170 for the purpose and applicability of administrative decisions.

(A) *Application requirements.*

(1) *Application forms.* Applications for projects requiring an administrative land use decision shall be made on forms provided by the City Recorder.

(2) *Submittal information.* The Planning Official shall advise the applicant on what constitutes a complete application. At a minimum, the application shall include all of the following:

- (a) The information requested on the application form;
- (b) Plans and exhibits required for the specific approval(s) being sought;
- (c) A written statement or letter explaining how the application satisfies each and all of the relevant code criteria and standards in sufficient detail;
- (d) Other information, studies, exhibits, or data as the Planning Official deems necessary to demonstrate compliance with city policies and ordinances; and
- (e) The required fee.

(B) *Procedure.*

(1) The City Recorder shall mail notice of a Pending Administrative Decision to the following individuals and agencies not less than 14 days prior to the Planning Official decision and pursuant to the requirements of divisions (2) and (3) below. The purpose of the Pending Administrative Decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application prior to a decision being made. Notices shall be sent via US Mail to:

- (a) All owners of record of real property within a minimum of 100 feet of the subject site;
- (b) Any person who submits a written request to receive a notice; and
- (c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city and any other affected agencies.
- (d) The city shall notify the Oregon Department of Transportation of projects involving a change access to a state highway.

(2) The notice of pending administrative decision, at a minimum, shall contain all of the

following information:

(a) The deadline for submitting written comments, which must be at least 14 days prior to the scheduled Planning Official decision as described above;

(b) A summary of the proposal and the relevant approval criteria. The notice must have sufficient detail to help the public identify and locate applicable code requirements;

(c) State the address and city contact person for submitting written comments; and the date, time and location the Planning Official is scheduled to make a decision on the application;

(d) Describe the street address or other easily understandable reference to the location of the proposed use or development;

(e) State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;

(f) State that all evidence relied upon by the Planning Official to make its decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the city; and

(g) State that after the comment period closes, the Planning Official will issue its decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

(3) The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the city under this Code.

(4) At the conclusion of the comment period, the City Recorder shall transmit all written comments received, if any, along with a copy of the application to Planning Official for review and decision.

(5) The Planning Official shall review the application and approve, approve with conditions, or deny it based on the applicable approval criteria and standards of this Code. The Planning Official must make a final decision within the 120-day period prescribed under state law (O.R.S. 227.178) of this Code.

(6) Within 7 days of the Administrative decision, the City Recorder shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), those who provided written comments on the proposal, and those who requested a copy of the decision. The City Recorder shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

(7) The administrative notice of decision shall contain all of the following information:

(a) A description of the applicant's proposal and the city's decision on the proposal (i.e., may be a summary);

(b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (i.e., copy of assessor's map may be used);

(c) A statement of where the city's decision can be obtained;

(d) The date the decision shall become final, unless appealed; and

(e) A statement that all persons entitled to notice may appeal the decision to the State Land Use Board of Appeals within 21 days of the notice date.

(C) *Final decision and effective date.* An Administrative Decision is effective the date the city

mails it unless the conditions of approval specify otherwise. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to O.R.S. 197.805 - 197.860. (Ord. 2014-05-01, passed 5-13-2014)

QUASI-JUDICIAL AND LEGISLATIVE LAND USE DECISIONS

§ 151.200 QUASI-JUDICIAL LAND USE DECISIONS.

See § 151.170 for the purpose and applicability of quasi-judicial decisions.

(A) *Application requirements.*

(1) *Application forms.* Applications for projects requiring a quasi-judicial land use decision shall be made on forms provided by the City Recorder.

(2) *Submittal information.* The Planning Official shall advise the applicant on what constitutes a complete application. At a minimum, the application shall include all of the following:

- (a) The information requested on the application form;
- (b) Plans and exhibits required for the specific approval(s) being sought;
- (c) A written statement or letter explaining how the application satisfies each and all of the relevant code criteria and standards in sufficient detail;
- (d) Other information, studies, exhibits, or data as the Planning Official deems necessary to demonstrate compliance with city policies and ordinances; and
- (e) The required fee.

(B) *Procedure.*

(1) *Mailed and published notice.* The city shall mail public notice of a public hearing on a quasi-judicial application at least 20 days before the hearing date to the following individuals and organizations. The City Recorder shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. At least 14 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the city. A copy of the newspaper's publication of the notice shall be made part of the administrative record. Hearing notices shall be sent via U.S. Mail to:

- (a) All owners of record of real property within a minimum of 300 feet of the subject site;
 - (b) Any person who submits a written request to receive a notice; and
 - (c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city and any other affected agencies.
- (d) The city shall notify the Oregon Department of Transportation of projects involving a change access to a state highway.

(2) *Content of notice.* Notice of a quasi-judicial hearing to be mailed and published per division (1) above shall contain all of the following information:

- (a) A summary of the proposal and the relevant approval criteria. The notice must have sufficient detail to help the public identify and locate applicable code requirements;
- (b) State the date, time and location of the Planning Commission hearing;
- (c) Describe the street address or other easily understandable reference to the location of the proposed use or development;
- (d) State that if any person fails to address the relevant approval criteria with enough

detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;

(e) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at City Hall and that copies shall be provided at a reasonable cost;

(f) A statement that a copy of the city's staff report and recommendation to the hearings body shall be available for review at no cost at least 7 days before the hearing, and that a copy shall be provided on request at a reasonable cost;

(g) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

(h) A statement that after the public hearing closes, the Planning Commission will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

(C) Conduct of the public hearing.

(1) At the commencement of the hearing, the Planning Commission Chairperson, or his or her designee, shall state to those in attendance all of the following information and instructions:

(a) The applicable approval criteria by Code chapter that apply to the application;

(b) Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

(c) Failure to raise an issue with sufficient detail to give the Planning Commission and the parties an opportunity to respond to the issue, may preclude appeal to the City Council or State Land Use Board of Appeals on that issue;

(d) At the conclusion of the initial evidentiary hearing, the Planning Commission shall deliberate and make a decision based on the facts, applicable approval criteria, and arguments in the public record. See division (D), record of the public hearing.

(e) Any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the Planning Commission grants the request, it will schedule a date to continue the hearing as provided in division (5) of this section, or leave the record open for additional written evidence or testimony as provided in division (6) of this section.

(2) Participants in a quasi-judicial hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, Planning Commissioners shall follow the guidance for disclosure of ex parte contacts contained in O.R.S. 227.180. Where a Planning Commissioner has an actual conflict of interest, the Commissioner shall disclose such interest and recuse himself or herself from decision making, except where state law provides otherwise. Where an actual or potential conflict of interest is likely, the Planning Commissioner shall individually disclose his or her relationship to the applicant in the public hearing and state whether he or she is capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

(3) Presenting and receiving evidence.

(a) The Planning Commission may set reasonable time limits for oral presentations and

may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

(b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section;

(c) Members of the Planning Commission may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

(4) The Planning Commission, in making its decision, shall consider only facts, applicable criteria, evidence and arguments in the public hearing record; except that the Commission may take notice of facts not in the hearing record upon announcing its intention to take notice of such facts in its deliberations and allowing persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts.

(5) If the Planning Commission decides to continue the hearing, the hearing shall be continued to a date that is at least 7 days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least 7 days, so that they can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the Planning Commission may limit additional testimony to arguments only and not accept additional evidence.

(6) If the Planning Commission leaves the record open for additional written testimony, the record shall be left open for at least 7 days after the hearing. Any participant may ask the Planning Commission in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the Planning Commission shall reopen the record, as follows:

(a) When the Planning Commission reopens the record to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;

(b) An extension of the hearing or record granted pursuant to this section is subject to the limitations of O.R.S. 227.178 ("120-day rule"), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and

(c) If requested by the applicant, the Planning Commission shall grant the applicant at least 7 days after the record is closed to all other persons to submit final written arguments, but not evidence, unless the applicant expressly waives this right.

(D) *Record of the public hearing.*

(1) The official record shall include all of the following information:

(a) All materials actually before the hearings body and not rejected;

(b) All materials submitted by the City Recorder to the hearings body regarding the application;

(c) The minutes of the hearing;

(d) The final written decision; and

(e) Copies of all notices given as required by this chapter, and correspondence regarding the application which the city mailed or received.

(2) The meeting minutes shall be filed in hardcopy form with the City Recorder. The minutes and other evidence presented as a part of the hearing shall be part of the record.

(3) All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

(E) *Final decision and effective date.* A quasi-judicial decision is effective the date the city mails it unless the conditions of approval specify otherwise. The Planning Commission's decision may be appealed to the City Council.

(Ord. 2014-05-01, passed 5-13-2014)

§ 151.201 LEGISLATIVE LAND USE DECISIONS.

(A) *Timing of requests.* The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time, including zone changes required when property is annexed to the City of Banks. Legislative requests are not subject to the 120-day review period under O.R.S. 227.178.

(B) *Procedure.*

(1) Hearings on legislative land use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for legislative land use requests must conform to state land use laws.

(2) The city shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first evidentiary hearing on the proposal.

(3) At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with O.R.S. 227.175 and mailed to:

(a) Each owner whose property would be directly affected by the proposal (e.g., zone change);

(b) Any affected governmental agency;

(c) Any person who requests notice in writing; and

(d) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with O.R.S. 227.175;

(4) At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.

(5) For each mailing and publication of notice, the City Recorder shall keep an affidavit of mailing/publication in the record.

(C) *Final decision and effective date.* A legislative land use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance. Notice of a legislative land use decision shall be mailed to all participants of record, and the Department of Land Conservation and Development within 20 days after the City Council decision is filed with the

City Recorder. The city shall also provide notice to all persons as required by other applicable laws.

(Ord. 2014-05-01, passed 5-13-2014)

§ 151.202 TIME LIMIT; CONSOLIDATED REVIEW; CITY RECORDER'S DUTIES.

(A) *Time limit - 120-day rule.* The city shall take final action on an administrative or quasi-judicial land use application, including resolution of all appeals, within 120 days from the date the city deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of O.R.S. 227.178. (Note: The 120-day rule does not apply to legislative land use decisions.)

(B) *Time periods.* In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

(C) *Consolidated review of applications.* When an applicant applies for more than 1 type of land use or development permit for the same 1 or more contiguous parcels of land, the city may consolidate the applications and review them concurrently. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each decision to be made. When more than 1 application is reviewed in a hearing, separate findings and decisions shall be made for each decision.

(D) *Planning Official duties.* The Planning Official has the following duties with regard to administration of this Code:

(1) Prepare application forms based on in the provisions of this Code and applicable state law;

(2) Prepare required notices, and process applications for review and action by City Council;

(3) Assist the Planning Commission and City Council in administering the land use hearings process;

(4) Prepare staff reports summarizing pending applications, including applicable decision criteria;

(5) Prepare findings consistent with Planning Commission and City Council decisions on land use applications;

(6) Prepare notices of final decisions, and submit notices with the City Recorder who shall mail a copy of the notices to all parties entitled to notice under this Code; and

(7) Assist the City Recorder in maintaining files and public record for land use applications.

(Ord. 2014-05-01, passed 5-13-2014)

FLOOD DAMAGE PREVENTION

Comment: This section should be carried over to the new code as it was recently developed and is in compliance with FEMA standards.

§ 151.215 PURPOSE.

(A) The purpose of this subchapter is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

(B) *Objectives.*

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize damage public facilities and utilities;
- (5) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- (6) To manage the alteration of special flood hazard areas and stream channels to maintain their natural and beneficial functions.

(C) *Methods of reducing flood losses.* In order to accomplish these objectives, this subchapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which area dangerous to health, safety, and property due to water or erosion control hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to flood, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage;
- (5) Preventing or regulating to construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.216 DEFINITIONS.

Unless specifically defined below, words or phrases used in this subchapter shall be interpreted so as to give them the meaning they have in common usage and to give this subchapter its most reasonable application.

APPEAL. A request for a review of the interpretation of any provision of this subchapter or a request for a variance.

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

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps

always includes the letters A or V.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always include the letters A or V.

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

BELOW-GRADE CRAWL SPACE. An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point.

CONDITIONAL LETTER OF MAP REVISION (CLOMR). A letter from FEMA commenting on whether a proposed project, if built as proposed, would meet the minimum NFIP standards or proposed hydrology changes.

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

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

ELEVATED BUILDING. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

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

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure.

HISTORIC STRUCTURE. A structure that is:

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

the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the State of Oregon Historic Preservation Program.

LETTER OF MAP CHANGE (LOMC). An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and/or Flood Insurance Studies. LOMCs are issued in the following categories:

(1) **LETTER OF MAP AMENDMENT (LOMA).** An amendment to the Flood Insurance Rate Maps based on technical data showing that an existing structure or parcel of land that has not been elevated by fill (natural grade) was inadvertently included in the special flood hazard area because of an area of naturally high ground above the base flood.

(2) **LETTER OF MAP REVISION (LOMR).** A **LOMR** revises the current Flood Insurance Rate Map and/or Flood Insurance Study to show changes to the floodplains, floodways or flood elevations. **LOMRs** are generally based on manmade alterations that affected the hydrologic or hydraulic characteristics of a flooding source and thus result in modification to the existing regulatory floodway, the effective base flood elevation, or the special flood hazard areas.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this subchapter.

RECREATIONAL VEHICLE. A vehicle which is:

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

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent

construction does not include land preparation, such as clearing, grading, and filling; nor does it include installation of streets and/or walkways; nor does it include excavation for a basement, footings, foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any way, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or State of Oregon Historic Resources inventory.

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

WATER DEPENDENT. A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 2016-08-02, passed 9-13-2016)

§ 151.217 LANDS TO WHICH THIS SUBCHAPTER APPLIES.

This subchapter shall apply to all areas of special flood hazards within the City of Banks. (Ord. 2016-08-02, passed 9-13-2016)

§ 151.218 BASIS FOR ESTABLISHING THE AREA OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Banks" dated MONTH, DAY, YEAR, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this subchapter. The Flood Insurance Study is on file at City Hall. The best available information for flood hazard area identification is outlined in § 151.225(B) and shall be the basis for regulation until a new FIRM is issued which incorporates

the date under § 151.225(B).
(Ord. 2016-08-02, passed 9-13-2016)

§ 151.219 PENALTIES FOR NONCONFORMANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this subchapter and other applicable regulations. Violations of the provisions of this subchapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this subchapter or fails to comply with any of its requirements shall be fined for the violation and in addition shall pay all costs and expenses involved in the case. Nothing herein contain shall prevent the City of Banks from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. 2016-08-02, passed 9-13-2016)

§ 151.220 ABROGATION AND SEVERABILITY.

This subchapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this subchapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. If any section clause, sentence, or phrase of the subchapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this subchapter.
(Ord. 2016-08-02, passed 9-13-2016)

§ 151.221 INTERPRETATION.

In the interpretation and application of this subchapter, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit or repeal any other powers granted under Oregon statutes.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.222 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this subchapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This subchapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This subchapter shall not create liability on the part of the City of Banks, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made hereunder.
(Ord. 2016-08-02, passed 9-13-2016)

§ 151.223 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) *Development permit required.* A development permit shall be obtained before construction or development begins with any area of special flood hazard established in § 151.218. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions” and for all development including fill and other activities, also set forth in the “Definitions.”

(B) *Application for development permit.* Application for a development permit shall be made of forms furnished by the City of Banks and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level of floodproofing in any structure;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods of any nonresidential structure meet the floodproofing criteria in § 151.227(B); and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.224 DESIGNATION OF LOCAL FLOODPLAIN ADMINISTRATOR.

The City Manager or his/her designee is hereby appointed to administer and implement this subchapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.225 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties of the local administrator shall include, but not be limited to:

(A) *Provide base flood elevation and freeboard.*

(1) When base flood elevation has been provided in accordance with § 151.218, Basis for Establishing the Areas of Special Flood Hazard, the local floodplain administrator shall provide it to the Building Official along with any freeboard requirements established in § 151.227 Specific Standards.

(2) When base flood elevation data has not been provided (A and V Zones) in accordance with § 151.218, Basis for Establishing the Areas of Special Flood Hazard, the local floodplain administrator shall obtain, review, and provide any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer § 151.227, Specific Standards, and § 151.228 Floodways and the Building Codes.

(B) *Permit review.*

- (1) Review all development permits to determine that the permit requirements of this

subchapter have been satisfied.

(2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of § 151.229 are met.

(C) *Information to be obtained and maintained.*

(1) Maintain for public inspection all records pertaining to the provisions of this subchapter.

(2) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in division (A) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

(3) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in division (A) of this section.

(a) Verify and record the actual elevation (in relation to mean sea level); and

(b) Maintain the floodproofing certifications required in § 151.223(B)(3).

(4) Maintain for public inspection all records pertaining to the provisions of this subchapter.

(D) *Alteration of watercourses.*

(1) Development shall not diminish the flood carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of the proposed development the applicant must submit certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.

(2) Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(3) Require that maintenance is provided within the altered or relocated portion of said watercourse, so that the flood carrying capacity is not diminished.

(4) Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before any encroachment, including fill, new construction, substantial improvement, or other development, in the regulatory floodway is permitted. The applicant shall be responsible for preparing technical data to support the CLOMR application and paying any processing or application fees to FEMA.

(E) *Requirement to submit new technical data.*

(1) Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).

(2) The applicant shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

(3) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgment Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable

State and Federal laws.

(F) *Non-conversion of enclosed areas below the lowest floor.* To ensure that enclosed areas below the lowest floor continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation/ recreation/bathrooms, and the like, the Floodplain Administrator shall:

(1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;

(2) Require such applicants to enter into a “Non-Conversion Deed Declaration for Construction Within Flood Hazard Areas” or equivalent. The deed declaration shall be recorded with the City of Banks and shall be in a form acceptable to the Floodplain Administrator.

(G) *Interpretation of FIRM boundaries.* Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 C.F.R. § 59-76).

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.226 GENERAL STANDARDS.

(A) Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent floatation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top frame ties to ground anchors (refer to FEMA’s “Manufactured Home Installation in Flood Hazard Areas” for additional techniques).

(B) Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) Utilities.

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(D) *Subdivision proposals.*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contains at least 50 lots or 5 acres (whichever is less).

(E) *Review of building permits.* Where elevation data is not available either through the Flood Insurance Study, FIRM, or from other authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, and the like, where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(F) *AH Zone drainage.* Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
(Ord. 2016-08-02, passed 9-13-2016)

§ 151.227 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided (Zones AI-30, AH and AE) as set forth in § 151.218, Basis For Establishing the Areas of Special Flood Hazard or § 151.225(B), Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

(A) *Residential construction.*

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(a) A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(B) *Nonresidential construction.*

(1) New nonresidential construction shall be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

(2) Nonresidential structures shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(3) Nonresidential construction shall be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in § 151.225(C)(2).

(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described division (A)(2) of this section.

(5) Applicants floodproofing nonresidential structures shall be notified that flood insurance premiums will be based on rates that are one floor below the floodproofed level (e.g. a building floodproofed to the base flood level will be rates as one foot below).

(6) Applicants shall supply a maintenance plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

(7) Applicants shall supply an emergency action plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

(C) *Manufactured dwellings.*

(1) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with § 151.226(2).

(2) The bottom of the longitudinal chassis frame beam in A zones, shall be at or above the BFE.

(3) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas.")

(4) Electrical crossover connections shall be a minimum of 12 inches above BFE.

(D) *Recreational vehicles.* Recreational vehicles placed on sites are required to:

(1) Be on the site for fewer than 180 consecutive days; and

(2) Be fully licensed for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the requirements of division (C) of this section and the elevation and anchoring requirements for manufactured homes.

(E) *Small accessory structures.* Relief from elevation or floodproofing as required in division (A) or (B) of this section may be granted for small accessory structures that are:

(1) Less than 200 square feet and do not exceed one story;

(2) Not temperature controlled;

(3) Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;

(4) Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank

installed in compliance with this subchapter or stored at least one foot above base flood elevation;

(5) Located and constructed to have low damage potential;

(6) Constructed of materials resistant to flood damage;

(7) Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

(8) Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or:

(a) Provide a minimum of two openings with a total net area of not less than one square inch of every square foot of enclosed areas subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or flood immediately below the opening;

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention;

(9) Constructed with electrical and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(F) *Below-grade crawl spaces.* Below grade crawl spaces are allowed subject to the standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.*

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.228 BEFORE REGULATORY FLOODWAY.

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the Banks FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.229 FLOODWAY.

Located within areas of special flood hazard established in § 151.218 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(A) Except as provided in division (C) of this section, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall

not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 151.226 through 151.230 Provisions for Flood Hazard Reduction.

(C) Projects for stream habitat restoration may be permitted in the floodway provided:

(1) The project qualifies for a Department of the Army, Portland District, "Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and

(2) A qualified professional (a registered professional engineer, or staff of the NRCS; the county or fisheries, natural resources or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in the 100-year flood levels as close to zero as practically possible given the goals of the project; and

(3) No structures would be impacted by a potential rise in flood elevation; and

(4) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.230. STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES).

Shallow flooding areas appear on the FIRM as AO Zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas the following provisions apply.

(A) New construction and substantial improvements of residential structures and manufactured homes within AO Zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth specified on the FIRM (at least two feet if no depth number is specified).

(B) New construction and substantial improvements of nonresidential structures within AO Zones shall either:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in § 151.227(B)(3).

(C) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(D) Recreational vehicles placed on sites with AO Zones on the community FIRM shall either:

(1) Be on the site for fewer than 180 consecutive days; and

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently

attached elevations; or

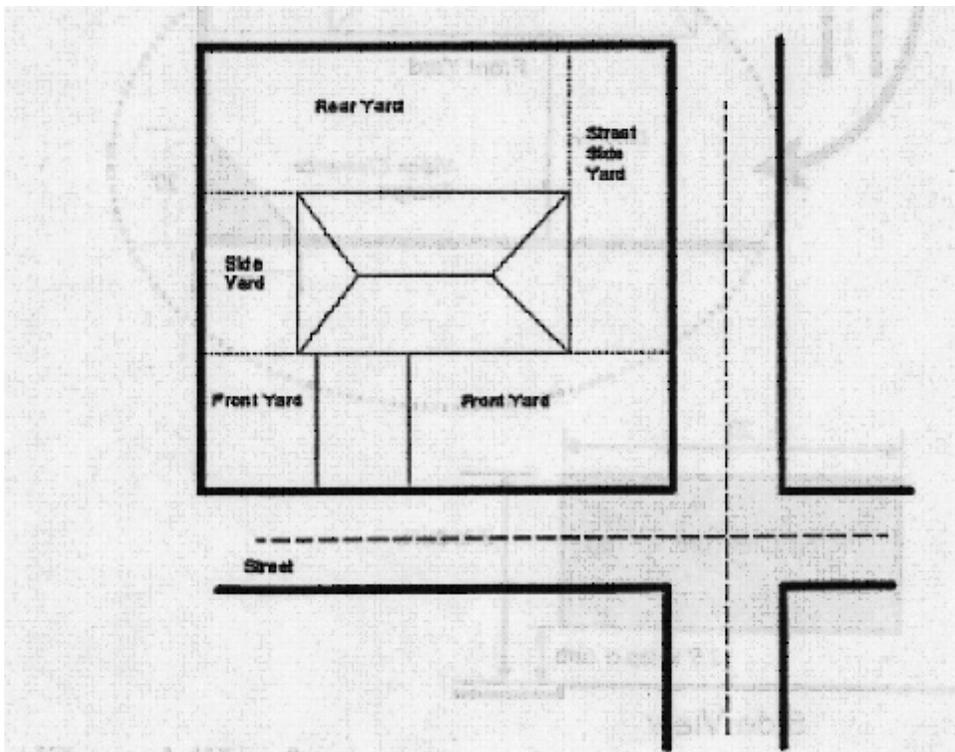
(3) Meet the requirements of this section above and the elevation and anchoring requirements for manufactured homes.

(Ord. 2016-08-02, passed 9-13-2016)

§ 151.999 PENALTY.

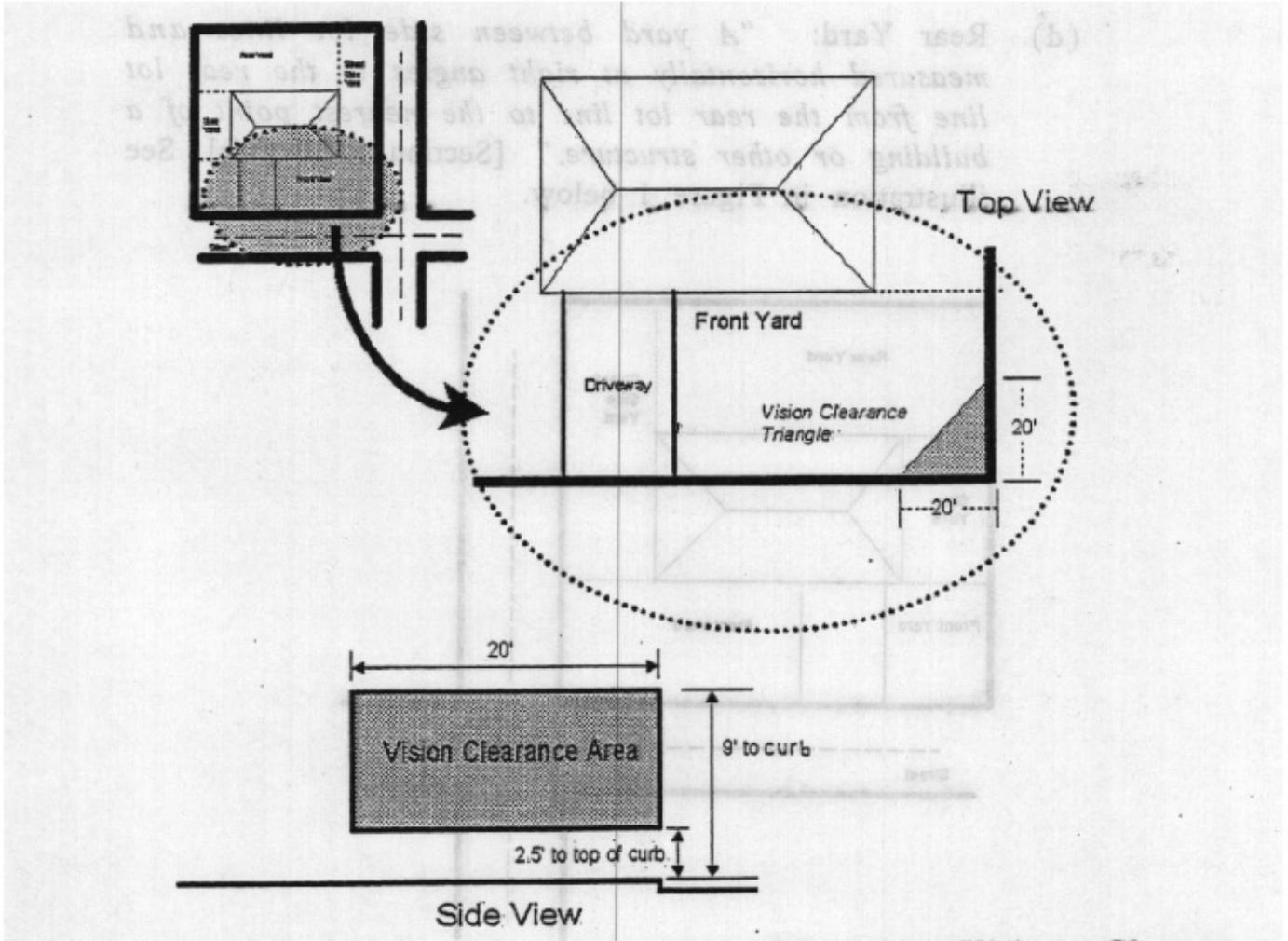
Violation of any provision of this chapter is punishable upon conviction by a fine of not more than \$100 for each day of violation, where the offense is a continuing offense, but the fine may not exceed \$1,000. A fine of not more than \$500 where the offense is not a continuing offense. (Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

APPENDIX A: FRONT, SIDE, AND REAR YARD AREAS



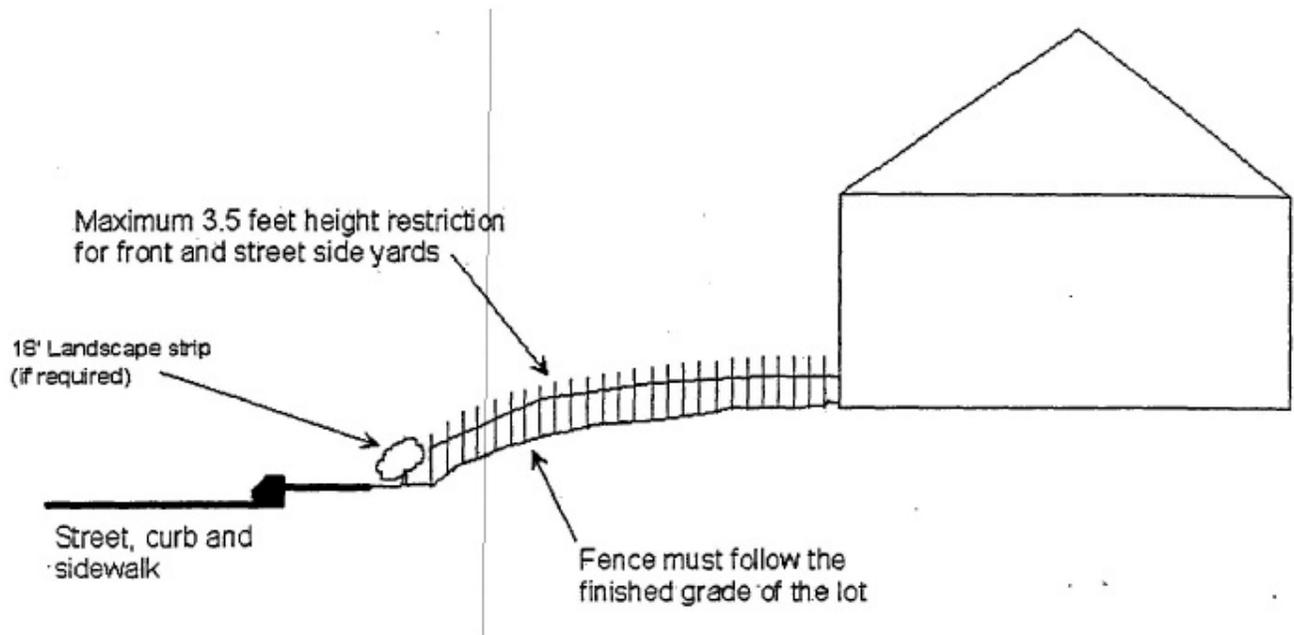
(Ord. 4.041, passed - -)

APPENDIX B: VISION CLEARANCE TRIANGLE



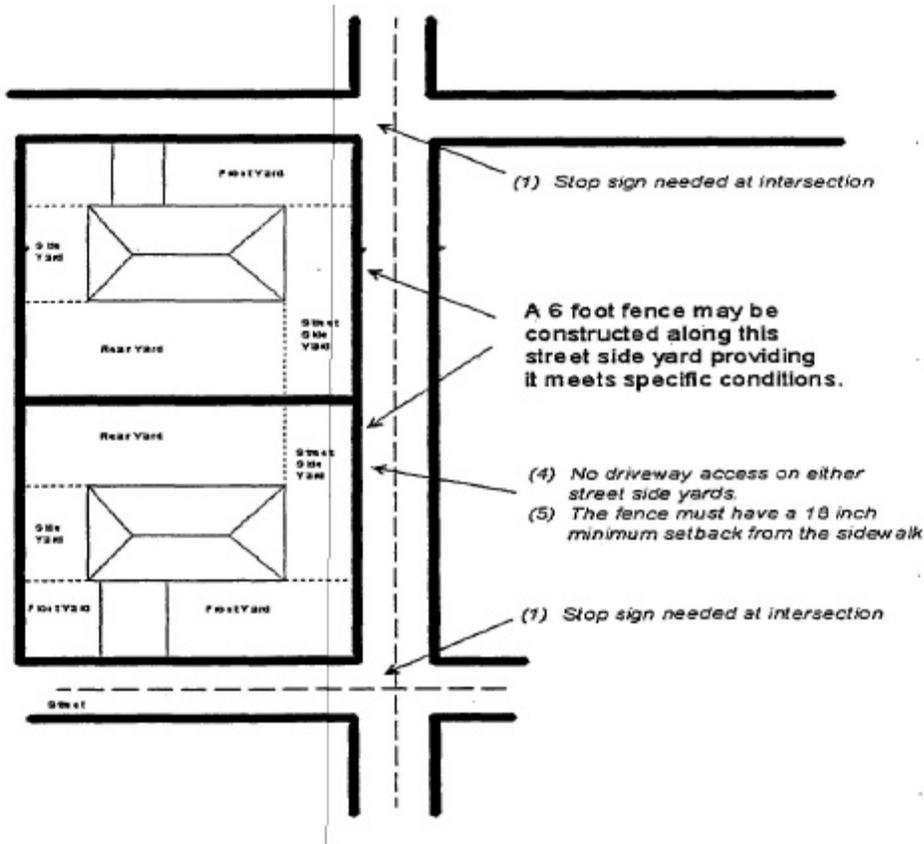
(Ord. 4.041, passed - -)

APPENDIX C: FENCE HEIGHT IN FRONT AND STREET SIDE YARDS



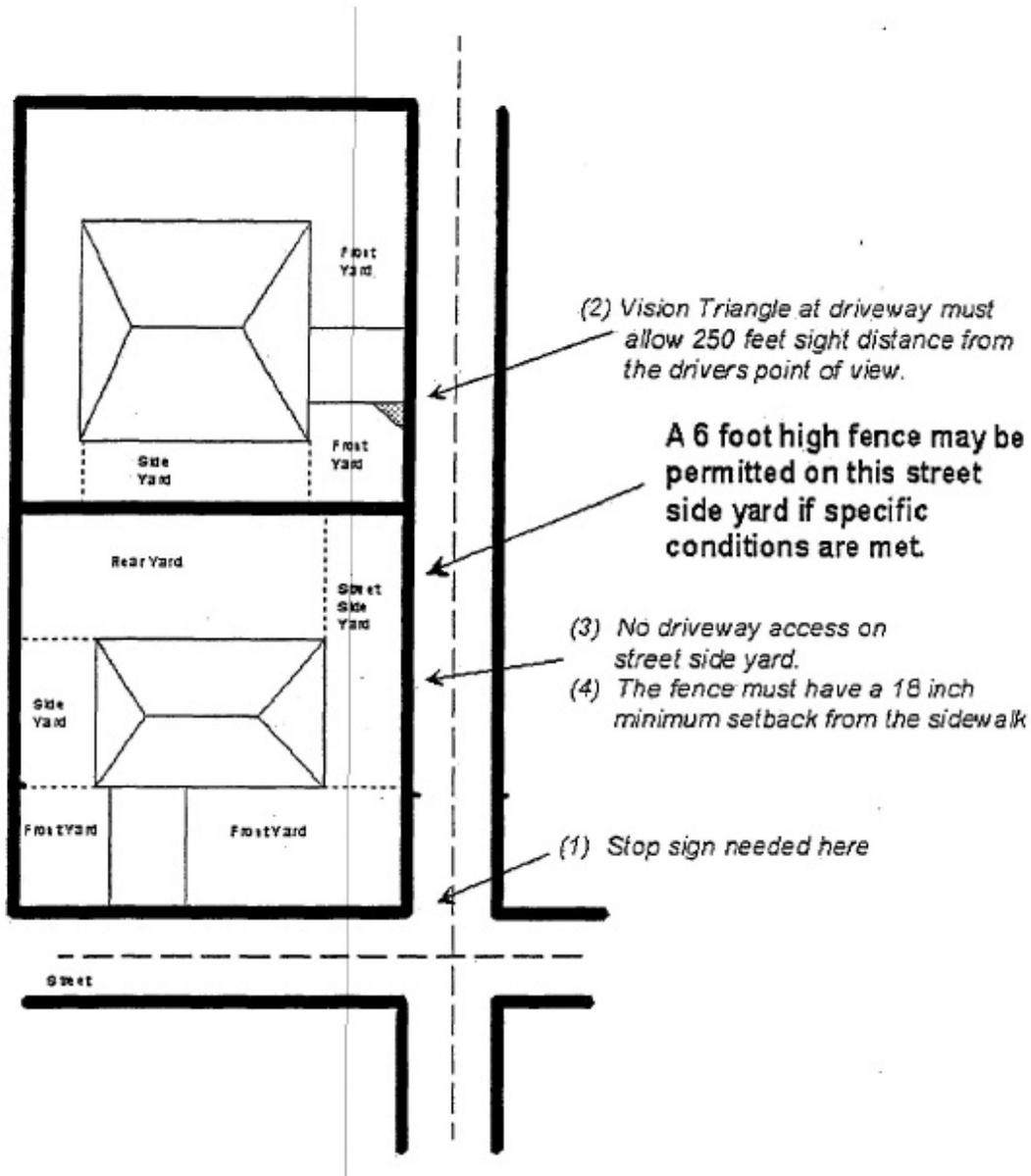
(Ord. 4.041, passed - -)

APPENDIX D: CORNER LOTS HAVING ABUTTING STREET SIDE YARDS



(Ord. 4.041, passed - -)

APPENDIX E: CORNER LOT HAVING STREET SIDE YARD ABUTTING NEIGHBOR'S FRONT YARD



(Ord. 4.041, passed - -)

APPENDIX F: THROUGH LOT YARD AREAS FOR FENCES

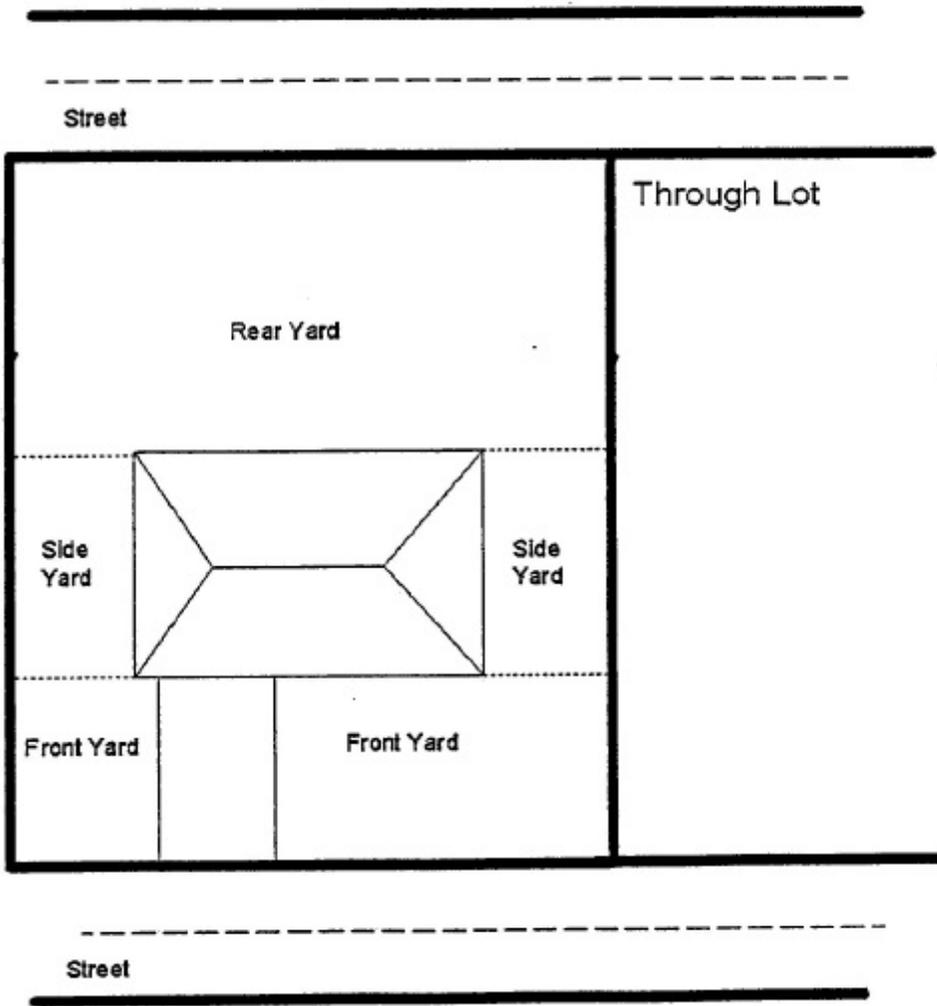


Figure 6. Through Lot Yard Areas for Fences

(Ord. 4.041, passed - -)

APPENDIX G: OFF-STREET LOADING SPACES

<i>Use</i>	<i>Aggregate Floor Area (Square Feet)</i>	<i>Berths Required</i>	<i>Type</i>
Freight terminals, industrial plants, manufacturing or wholesale establishments, warehouses	12,000 – 36,000	1	A
	36,000 – 60,000	2	A
	60,000 – 100,000	3	A
	each additional 50,000 or fraction thereof	1 additional	A

Auditorium, motel convention halls, or sport arenas	25,000 – 150,000	1	B
	150,000 – 400,000	2	B
	each additional 250,000 or fraction thereof	1 additional	B
Hospitals, nursing homes, sanatoria, convalescent homes, and similar institutional uses	10,000 – 100,000	1	B
	Over 100,000	2	B
Department stores, retail establishments, restaurants, funeral homes, and commercial establishments not otherwise specified	7,000 – 24,000	1	B
	24,000 – 50,000	2	B
	50,000 – 100,000	3	B
	Over 100,000		
	Each additional 50,000 or major fraction thereof	1 additional	B
Hotels or office buildings	25,000 – 40,000	1	B
	40,000 – 100,000	2	B
	Each additional 100,000 or major fraction thereof	1 additional	B
Schools	Over 14,000	1	B

(Ord. 2-2-80, passed 2-19-1980; Am. Ord. passed 4- -1989)

CHAPTER 152: LAND DIVISION REGULATIONS

Section

Land Division and Property Line Adjustments

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- 152.002 Applicability
- 152.003 General requirements
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- 152.005 Flag lots
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- 152.007 Preliminary plat approval criteria
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- 152.009 Final plat submission requirements and approval criteria
- 152.010 Filing and recording
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Design Standards

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LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

Comment: This section was prepared using the *Small Cities Model Code* in 2014. It should be reviewed for opportunities to streamline the land use process where possible. Land partitions and property line adjustments should be changed to an administrative land use review, not subject to a planning commission hearing, because the standards are clear and objective.

§ 152.001 PURPOSE.

The purpose of this chapter is to implement the objectives in divisions (A) through (E), below:

- (A) Provide rules, regulations and standards governing the approval of subdivisions, partitions and property line adjustments.
 - (B) Carry out the city's development pattern, as envisioned by the city's Comprehensive Plan.
 - (C) Encourage efficient use of land resources and public services, and to provide transportation options.
 - (D) Promote the public health, safety and general welfare through orderly and efficient urbanization.
 - (E) Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.
- (Ord. 2014-05-01, passed 5-13-2014)

§ 152.002 APPLICABILITY.

This chapter applies to applications for approval of partitions, subdivisions and property line adjustments, as follows:

- (A) Partitions are the dividing land to create not more than 3 parcels of land within a calendar year.
- (B) Subdivisions are the dividing of land to create 4 or more lots within a calendar year.
- (C) Property line adjustments are modifications to property boundaries that do not divide

land. Lot consolidations where no lot or parcel is created are processed the same as property line adjustments.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.003 GENERAL REQUIREMENTS.

(A) *Subdivision and partition approval through 2-step process.* Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following 2 steps:

(1) The preliminary plat must be approved before the final plat can be submitted for approval consideration; and

(2) The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

(B) *Compliance with O.R.S. Chapter 92.* Subdivisions and partitions shall conform to O.R.S. Chapter 92, Subdivisions and Partitions.

(C) *Future re-division plan.* When subdividing or partitioning tracts into large lots (i.e., greater than 3 times or 300% the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of dividable lots and extension of planned public facilities to adjacent parcels can occur in the future, in accordance with this Code.

(D) *Adequate utilities.* All lots created through land division shall have adequate public utilities and facilities, including streets, water, sewer, gas, and electrical systems, consistent with the Public Works Design Standards Manual. Water system improvements shall conform to the Banks Water Master Plan.

(E) *Adequate drainage.* All lots created through land division shall have adequate surface water drainage facilities that avoid exposure to flood damage and protect water quality. Water quality or quantity control improvements shall conform to the requirements of Clean Water Services.

(F) *Adequate access.* All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, consistent with the Public Works Design Standards Manual.

(G) *Underground utilities.* All new lots shall be served with utilities located and constructed underground, consistent with the Public Works Design Standards Manual, except where the City Engineer determines that underground placement of utilities is infeasible.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.004 PRELIMINARY PLAT APPROVAL PROCESS.

(A) *Review of preliminary plat.* Preliminary plats shall be processed using the quasi-judicial procedure under § 151.200. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in § 152.007.

(B) *Preliminary plat approval period.* Preliminary plat approval shall be effective for a period of 2 years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant with § 152.008, within the 2-year period. The

Planning Commission may approve phased subdivisions, pursuant with this chapter, with an overall time frame of more than 2 years between preliminary and final plat approvals.

(C) *Modifications and extensions.* The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in this chapter. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed 1 year per extension, provided that all of the following criteria are met:

- (1) Any changes to the preliminary plat follow the procedures in this chapter;
- (2) The applicant has submitted written intent to file a final plat within the 1-year extension period;
- (3) An extension of time will not prevent the lawful development of abutting properties;
- (4) There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
- (5) The extension request is made before expiration of the original approved plan.

(D) *Phased subdivision.* The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided applicant's proposal meets all of the following criteria:

- (1) In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than 1 year;
- (2) Public facilities shall be constructed in conjunction with or prior to each phase;
- (3) The phased development shall not result in requiring the city or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
- (4) The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
- (5) Planning Commission approval is required for modifications to phasing plans.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.005 FLAG LOTS.

(A) *Flag lots.* Flag lots may be created only where a through street cannot reasonably be extended to serve standard lots in accordance with this Code. A flag lot driveway ("flag pole") shall serve not more than 3 dwelling units, provided applicable building and fire code requirements are met. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall not preclude planned future street connections as adjacent properties develop, and shall conform to the transportation connectivity and block length standards set forth in the City of Banks Transportation System Plan.

(B) *Emergency vehicle access.* An emergency vehicle apparatus lane, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required where a lot is not adequately served by a fire hydrant with sufficient water pressure.

(C) *Reciprocal access.* A drive serving more than 1 lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure or other obstacle shall

be placed within the drive area.
(Ord. 2014-05-01, passed 5-13-2014)

§ 152.006 PRELIMINARY PLAT SUBMISSION REQUIREMENTS.

Applications for preliminary plat approval shall contain all of the following information:

(A) *Application for quasi-judicial review.* Application materials for a quasi-judicial review, including application form, fee, narrative, and plan exhibits, are required. See § 151.200.

(B) *Public facilities and services impact analysis.* The impact analysis shall quantify and assess the effects of the proposed development on public facilities and services. The City Engineer and City Planning Official shall advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system (for subdivisions and master planned developments); water system; and sewer system. For each system and type of impact, the analysis shall propose improvements necessary to meet the City Public Works Design Standards Manual, other applicable adopted ordinances and facility master plans. The city may require a separate Traffic Impact Analysis.

(C) *Preliminary plat map(s).* An engineer or professional land surveyor licensed by the State of Oregon shall prepare the preliminary plat map(s), at a scale determined by the City Engineer, which shall consist of at least the following information:

(1) Name of proposed partition or subdivision (partitions are named by year and file number). This name shall not duplicate the name of another land division in Washington County (check with County Surveyor);

(2) Date, north arrow, and scale of drawing;

(3) Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;

(4) Zoning of parcel to be divided, including any overlay zones; and

(5) A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and

(6) Identification of the drawing as a "preliminary plat".

(7) *Existing conditions.* Except where the City Planning Official deems certain information is not relevant, applications for preliminary plat approval shall contain all of the following information on existing conditions of the site:

(a) *Streets.* Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;

(b) *Easements.* Width, location and purpose of all existing easements of record on and abutting the site;

(c) *Utilities.* Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;

(d) *Ground elevations shown by contour lines at 2-foot vertical interval.* Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Planning Commission may waive this standard for partitions when grades,

on average, are less than 6%;

- (e) The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- (f) The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
- (g) North arrow and scale; and
- (h) Other information, as deemed necessary by the City Planning Official for review of the application. The city may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

(8) *Proposed development (may be depicted on more than 1 map)*. Except where the City Planning Official deems certain information is not relevant, applications for preliminary plat approval shall contain all of the following information on the proposed development:

- (a) Proposed lots, streets, tracts, including private open space, common area, or streets, if any, and approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
- (b) Location, names, right-of-way dimensions, approximate radius of street curves, and approximate finished street center line grades;
- (c) Any streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- (d) The Planning Commission shall also require a dedication of land for public park and recreation purposes. The public park dedication shall not exceed 15% (0 to 15%) of the buildable land area within the subdivision;
- (e) Easements: location, width and purpose of all proposed easements;
- (f) Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
- (g) Proposed public street improvements, consistent with the Public Works Design Standards Manual, including evidence of contact with the applicable road authority, if different than the city, where a new street connection is proposed;
- (h) On slopes exceeding an average grade of 10%, as determined by the City Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards for streets, driveways, drainage, and retaining walls, as applicable;
- (i) Preliminary design for extending city water service to each lot consistent with the Public Works Design Standards Manual;
- (j) Preliminary design for extending sanitary sewer service to each lot, and a Service Provider Letter from Clean Water Services;
- (k) Proposed method of storm water drainage and treatment, if required, consistent with the Public Works Design Standards Manual and a Service Provider Letter from Clean Water Services;
- (l) The approximate location and identity of other utilities, consistent with the Public Works Design Standards Manual including the locations of street lighting fixtures, as applicable;
- (m) Evidence of compliance with applicable overlay zones, including but not limited to those regulating development in flood hazard areas.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.007 PRELIMINARY PLAT APPROVAL CRITERIA.

(A) *Approval criteria.* The Planning Commission shall approve, approve with conditions, or deny a preliminary plat application. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

(1) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the underlying zoning, unless a variance is approved pursuant to this chapter;

(2) Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, storm drainage, and streets, shall conform to the Public Works Design Standards Manual, to applicable city standards and the requirements of the respective service providers;

(3) The proposed streets, utilities, and water facilities conform to City of Banks Public Works Design Standards Manual, adopted public facility master plans and allow for logical transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;

(4) The proposed plat name is not already recorded for another subdivision, and the plat is consistent with the provisions of O.R.S. Chapter 92;

(5) Proposed open space in subdivisions shall not exceed 15% of the buildable land area (0 to 15%) within the subdivision and are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;

(6) Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to the final plat;

(7) Evidence that improvements or conditions required by the city, road authority, Washington County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and

(8) All proposed lots, except those reserved as common area or open space, contain sufficient buildable area for at least 1 dwelling, given existing natural features, if any, and the setback and lot coverage standards of the underlying zone.

(B) *Conditions of approval.* The Planning Commission may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations. (Ord. 2014-05-01, passed 5-13-2014)

§ 152.008 LAND DIVISION-RELATED VARIANCES.

Variations are processed in accordance with §§ 152.075 through 152.076. Applications for variations associated with proposed land divisions shall be submitted at the same time as the application for the land division, and, when practical, the applications shall be reviewed concurrently.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.009 FINAL PLAT SUBMISSION REQUIREMENTS AND APPROVAL CRITERIA.

(A) *Final plat required.* Final plats require review and approval by the Planning Commission

prior to recording with Washington County. The applicant shall submit an application for final plat approval within 2 years of the approval of the preliminary plat. A professional land surveyor licensed by the State of Oregon shall prepare the final plat, which shall conform to O.R.S. Chapter 92.

(B) *Final plat approval process and criteria.* The Planning Commission shall approve, approve with conditions, or deny a final plat application. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

(1) The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;

(2) All public improvements required by the preliminary plat have been installed and approved by the city, or applicable service provider if different than the City of Banks, or are otherwise bonded with a financial guarantee in a form or amount acceptable to the City Attorney;

(3) The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;

(4) All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;

(5) The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, water, and sewer facilities, as applicable;

(6) As applicable, the applicant has furnished acceptable copies of Covenants, Conditions and Restrictions (CC&R's); easements, maintenance agreements (e.g., for access, common areas, surface water facilities, parking, and the like); and other documents pertaining to common improvements recorded and referenced on the plat;

(7) Written verification from Clean Water Services that sanitary sewer service is provided to every lot depicted on the plat and the development conforms to applicable surface water management and storm drainage requirements; and

(8) The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by O.R.S. Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by the Washington County Surveyor for purposes of identifying its location.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.010 FILING AND RECORDING.

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat ("lot of record") shall follow the procedures set forth in O.R.S. 92.010 - 92.190. The final plat filing and recording requirements are as follows:

(A) *Filing plat with county.* Within 60 days of the city approval of the final plat, the applicant shall produce required final hardcopy and electronic copies of said plat, obtain required

signatures, and submit the final plat to Washington County for signatures of County officials and recording as required by O.R.S. Chapter 92.

(B) *Proof of recording.* Upon final recording with the County, the applicant shall submit to the city a mylar copy and 3 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits any newly created lot.

(C) *Prerequisites to recording the plat.*

(1) No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by O.R.S. Chapter 92.

(2) No plat shall be recorded until the County Surveyor approves it in the manner provided by O.R.S. Chapter 92.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.011 RE-PLATTING AND VACATION OF PLATS.

Any plat or portion thereof may be re-platted or vacated upon approval of an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to O.R.S. Chapter 271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable city standards. (Ord. 2014-05-01, passed 5-13-2014)

§ 152.012 PROPERTY LINE ADJUSTMENTS.

A property line adjustment is the modification of lot boundary when no lot is created. The Planning Commission reviews applications for property line adjustments pursuant with the administrative land use decision procedure under § 151.190. The application submission and approval process for property line adjustments is as follows:

(A) *Submission requirements.* All applications for property line adjustment shall be made on forms provided by the city and shall include information required for a administrative land use review, pursuant with § 151.190. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of lands subject to any flood hazard area overlay; existing fences and walls; and any other information deemed necessary by the Planning Commission for ensuring compliance with city codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.

(B) *Approval criteria.* The Planning Commission shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

(1) *Parcel creation.* No additional parcel or lot is created by the lot line adjustment;

(2) *Lot standards.* All resulting lots and parcels conform to the applicable lot standards of the underlying zone, including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform to any flood hazard area overlay requirements; and

(3) *Access and road authority standards.* All lots and parcels conform to the standards or requirements of § 151.062, and all applicable road authority requirements are met. If a lot is nonconforming to any city or road authority standard, it shall not be made less conforming by the property line adjustment.

(C) *Recording property line adjustments.*

(1) *Recording.* Upon the city's approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Washington County within 60 days of approval and submit a copy of the recorded survey map to the city, to be filed with the approved application.

(2) *Time limit.* The city's approval of the property line adjustment expires if not recorded within 60 days of approval. The applicant shall submit a copy of the recorded property line adjustment survey map to the city within 15 days of recording and prior to any application being filed for a building permits on the re-configured lots.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.013 MODIFICATIONS TO APPROVED PLANS AND CONDITIONS.

This section applies when an applicant proposes to modify an approved application or condition of approval. The purpose of this section is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve city resources.

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.014 MODIFICATIONS.

(A) *Modifications.* The Planning Commission reviews applications for modifications through the quasi-judicial procedure under § 151.200. Any 1 of the following changes constitutes a modification:

(1) A change in land use, from a less intensive use to a more intensive use, as evidenced by an increase in parking demand, paved area, automobile or truck trips (peak and/or average daily trips), hours of operation, or similar factors, as determined by the Planning Commission;

(2) An increase in floor area to a commercial or industrial development, or an increase in the number of dwelling units in a multifamily development;

(3) A reduction in required setbacks, or an increase in lot coverage;

(4) A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic, where the roadway authority determines the change could cause a significant adverse impact on traffic operations or safety;

(5) A reduction to screening, or a reduction to the area reserved for common open space or landscaping; or

(6) Change to a condition of approval, or a change similar to division (1) through (5), above, that could have a detrimental impact on adjoining properties.

(7) Other changes similar to those in divisions (1) through (6), above, in scale, magnitude, or impact to adjacent properties, as determined by the Planning Commission.

(B) *Modification applications; approval criteria.* Requests for modifications shall conform to all

of the following procedures and criteria:

(1) The applicant shall submit an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The city may require other relevant information, as necessary, in evaluating the request;

(2) The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with §§ 151.115 through 151.118;

(3) The scope of review shall be limited to the modification request. Notice shall be provided in accordance with § 151.200; and

(4) The Planning Commission shall approve, deny, or approve with conditions an application for modification based on written findings on the applicable Code criteria, which shall be the same as for the original land use approval (e.g., subdivision, site design review, conditional use, permit, and the like).

(Ord. 2014-05-01, passed 5-13-2014)

§ 152.015 ENFORCEMENT.

Any violation of this chapter or a provision of any permit or land use decision approved under the authority of this chapter is a civil infraction and a nuisance, enforceable under the provisions of chapter 37, Civil Enforcement, and any other lawful remedy or procedure, including a suit for declaratory and injunctive relief in Circuit Court. The city is entitled to recover its reasonable enforcement costs expended in any such enforcement action to applicable fines and penalties.

(Ord. 2014-05-01, passed 5-13-2014)

DESIGN STANDARDS

§ 152.050 PRINCIPLES OF ACCEPTABILITY.

A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to any approved development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by these regulations, the policies and elements of the city's Comprehensive Plan, and any other ordinances or laws not in conflict herewith.

(Ord. passed 4-17-1992)

§ 152.051 REQUIRED IMPROVEMENTS.

(A) The person making a land division shall have the responsibility of providing the following improvements and pursuant to plans and specifications as approved by the City Engineer and in conformance with the design standards contained in this chapter:

- (1) All street grading;
- (2) Installation of roadway curbs and permanent roadway paving;
- (3) Installation of facilities for proper storm drainage and erosion control facilities;
- (4) Installation of sidewalks;

- (5) Sanitary sewers;
- (6) Water mains;
- (7) Street trees;
- (8) Street lights; and
- (9) Landscaping and other improvements of common areas, buffer areas, playgrounds, trails entry features, and the like.

(B) The city shall not issue a building permit and shall withhold all public improvements of whatsoever nature, including the maintenance of streets, furnishing sewer facilities and water and electric services in all subdivisions or partitions until adequate provision for the installation of the improvements required shall have been made by the divider or his or her successor in interest. The advance provisions for public improvements may include the formation of a local improvement district, cash deposits, surety bonds, or legally binding escrows sufficient to discharge the full amount of the divider's liability for necessary and required facilities and improvements. The advance provisions for other improvements may also include the bonds and other binding agreements as may be acceptable to the city. In addition, the city may require a maintenance bond or insurance to assure repair or replacement of defective improvements within the subdivision up to 3 years after acceptance by the city.

(Ord. passed 4-17-1992) Penalty, see § 152.999

§ 152.052 STREETS.

(A) *Generally.* All streets shall be dedicated to the public and shall be constructed in accordance with the design standards of this chapter, unless otherwise approved. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. Street layout shall optimize solar access. Where location is not shown in a development plan, the arrangement of streets shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(2) Confirm to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

(3) Provide adequate pedestrian and bicycle access and circulation for all neighborhood activity centers, including existing and planned schools, parks, shopping areas, transit stops and employment centers.

(4) Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the street standards of this section and the Comprehensive Plan. Maintenance of sidewalks and planter strips in the right-of-way is the continuing obligation of the adjacent property owner. Bikeways or bicycle lanes shall be required along arterials and major collectors. Sidewalks shall be required along arterials and collectors.

(B) *Minimum right-of-way and roadway width.*

(1) Unless otherwise approved in accordance with the provisions below or those of division

(O) below, the street right-of-way and roadway widths shall not be less than the width in feet shown in the following table:

Type of Street	Right-of-Way Width	Pavement Width
Arterial	80-100 feet	40-52 feet
Collector	60-80 feet	40-48 feet
Residential Street	50 feet	32 feet
Residential Collector	50 feet	32 feet
Residential Boulevard	70 feet	44 feet
Radius for turn-around at end of cul-de-sac	55 feet	42 feet
Alleys	20 feet	20 feet

(2) Where a range of width is indicated, the width shall be the narrower in the range unless unique and specific conditions exist as determined by the decision-making authority based upon the following factors:

- (a) Street classification in the Transportation System Plan;
- (b) Anticipated traffic generation;
- (c) On-street parking needs;
- (d) Sidewalk and bikeway requirements based on anticipated level of use;
- (e) Requirements for placement of utilities;
- (f) Street lighting;
- (g) Minimize drainage, slope, and sensitive lands impacts;
- (h) Street tree location;
- (i) Protection of significant vegetation;
- (j) Safety and comfort for motorists, bicyclists, and pedestrians;
- (k) Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
- (l) Access needs for emergency vehicles; and
- (m) Transition between different street widths (i.e., existing streets and new streets).

(3) On local streets parking shall be prohibited on 1 or both sides of the street, unless presently provided on an existing local street. On collector and arterial streets, minimum roadway width shall be determined in conjunction with parking and access control measures, e.g., the greater street width shall be required for streets likely to have cars backing onto the street.

(4) Sidewalks shall be provided on both sides of all streets (unless otherwise approved by the Planning Commission) of at least 6 feet width in all zoning districts. The entire sidewalk width or any portion thereof may be included as a permanent easement in lieu of inclusion in the street right-of-way.

(5) A parking strip at least 5 and 1/2 feet wide shall be provided between the face of curb and the sidewalk. Any portion of the parking strip may be included as a permanent easement in lieu of inclusion in the street right-of-way.

(6) Pavement structure shall consist of 3 inches of asphalt and eight inches of crushed rock.

(7) Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-way may be accepted but

ordinarily not less than 50 feet. If necessary, slope easements may be required.
(Am. Ord. passed 1-14-1997)

(C) *Reserve strips.* Reserve strips or street plugs controlling access to the street will not be approved unless necessary for the protection of the public welfare or the substantial property rights and in these cases they may be required. The control and disposal of the land comprising the strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.

(D) *Alignment.* As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuation of the centerlines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of street having approximately the same direction and, in no case shall be less than 100 feet.

(E) *Future extensions of streets.* Where necessary to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved with a turn around. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

(F) *Intersection angles.* Streets may be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of centerline tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 degrees or which include an arterial or collectors street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway radius of 10 feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than 2 streets at any 1 point will not be approved.

(G) *Existing streets.* Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.

(H) *Half streets.* Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within the tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

(I) *Cul-de-sac.* A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building site for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turnaround.

(J) *Street names.* Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established plan of the city and shall be subject to the approval of the Planning Commission.

(K) *Grades and curves.* Grades shall not exceed 6% on arterials, 10% on collector streets,

and 12% on other street. Center line radii of curves shall not be less than 300 feet on arterials, 200 feet on collectors, or 100 feet on other streets and shall be to an even 10 feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide building sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slop of 0.5%.

(L) *Streets adjacent to railroad right-of-way.* Whenever the proposed land division contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of the right-of-way at a distance suitable for the appropriate use of the land between the street and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grade to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

(M) *Access control.* Where a land division abuts or contains an existing or proposed arterial or collector street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a no-access reservation along the rear or side property line, minimum driveway and intersection spacing of 150 to 200 feet, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. The access control measures shall not have the effect of precluding at least 1 point of access onto a public road per existing lot of record.

(1) *Intent and purpose.* The intent of this chapter is to manage access to land uses and on-site circulation, and to preserve the transportation system in terms of safety, capacity, and function. This chapter applies to all public streets within the City of Banks, and to all properties that abut these roadways. This chapter implements the access management policies of the City Transportation System Plan.

(2) *Applicability.* This chapter applies to all public streets within the city and to all properties that abut these streets. The standards apply when lots are created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation; and when properties are subject to Land Use Review or Site Design Review.

(3) *Access permit required.* Access to a public street (e.g., a new curb cut or driveway approach) requires an access permit. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval. In either case, approval of an access permit shall follow the procedures and requirements of the applicable road authority, as determined through the city's review procedures.

(4) *Access to State Highways.* No new access shall be allowed to OR 6. Any new access to OR 47 requires an ODOT-approved approach road permit.

(N) *Alleys.* Alleys may be required in commercial and industrial districts, unless other permanent provisions, for access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than 12 feet.

(O) *Creation of a sub-standard public or private street.* The creation of a street and the resultant separate land parcels, if any, shall be in conformance with the requirements for subdivision, including the street design standards of this section. However, the Planning Commission may approve the creation of a public street or of a private street to be established by deed without full compliance with the regulations applicable to subdivisions provided the

following conditions exist:

(1) The establishment of the public street is initiated by the City Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street; or

(2) The tract in which the street is to be dedicated is a major partition within an isolated ownership either of not over one acre or of the size and characteristics as to make it impossible to develop building sites for more than 3 dwelling units; and

(3) The street has been approved by the Fire Marshal and has been found to provide adequate emergency vehicle access; and

(4) The street has been found to provide adequate access for utilities; and

(5) In the case of a private street, provisions have been made to insure adequate maintenance of the street and any utilities within it.

(P) *Functional classification.* Development should reflect functional classification of roadways as identified in the Banks Transportation System Plan, including any bicycle, pedestrian or frontage requirements. There are no rural lands in Banks.

(Q) *Off-site road improvements.* Where off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bicycle ways along arterials and major collectors and projects identified in the Banks Bicycle and Pedestrian Plan.

(Ord. passed 4-17-1992; Am. Ord. 2011-04-02, passed 4-12-2011; Am. Ord. 2015-10-02, passed 11-10-2015; Am. Ord. 2016-02-01, passed 4-12-2016) Penalty, see § 152.999

§ 152.053 BLOCKS.

(A) *Generally.* The length, width, and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.

(B) *Size.* No block shall be more than 1,200 feet in length between street corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. In blocks over 600 feet in length, there shall be a crosswalk not less than 20 feet in width near the middle of the block. A block shall have sufficient width to provide for 2 tiers of building sites unless topography or location of adjoining street justifies an exception. In blocks over 600 feet in length, and where appropriate at the end of cul-de-sacs, there shall be a dedicated public way of not less than 10 feet in width for pedestrian access through the block, or to provide access to school, parks, or other activity centers.

(1) All local and collector streets that stub into a development site shall be extended within the site to provide through circulation unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this code. This exception applies when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes some reasonable street connection.

(2) *Street connectivity and formation of blocks.* In order to promote efficient vehicular and

pedestrian circulation throughout the city, subdivisions and site developments of more than 2 acres shall be served by a connecting network of public streets and/or accessways, in accordance with the following standards (minimum and maximum distances between 2 streets or a street and its nearest accessway):

(a) *Residential districts*. Minimum of 100 foot block length and maximum of 600 foot length; maximum 1,400 feet block perimeter;

(b) *Main Street area*. Minimum of 100 foot length and maximum of 400 foot length; maximum 1,200 foot perimeter;

(c) *General Commercial districts*. Minimum of 100 foot length and maximum of 600 foot length; maximum 1,400 foot perimeter;

(d) Not applicable to the Industrial Districts;

(3) *Pedestrian/bicycle accessway standards*. Where a street connection in conformance with the maximum block length standards in division (B) is impracticable, a pedestrian/bicycle accessway shall be provided at or near the middle of a block in lieu of the street connection. The city may also require developers to provide a pedestrian/bicycle accessway where a cul-de-sac or other street is planned and the accessway would connect the streets or provide a connection to other developments. Such access ways shall conform to all of the following standards:

(a) Pedestrian/bicycle accessways shall be no less than 10 feet wide and located within a right-of-way or easement allowing public access and, as applicable, emergency vehicle access;

(b) If the streets within the subdivision or neighborhood are lighted, all accessways in the subdivision shall be lighted. Accessway illumination shall provide at least 2-foot candles;

(c) A right-of-way or public access easement provided in accordance with division (b) that is less than 20 feet wide may be allowed on steep slopes where the decision body finds that stairs, ramps, or switch-back paths are required;

(d) All pedestrian/bicycle accessways shall conform to applicable ADA requirements;

(e) The city may require landscaping as part of the required accessway improvement to buffer pedestrians from adjacent vehicles, provided that landscaping or fencing adjacent to the accessway does not exceed 4 feet in height; and

(f) Which may be modified by the decision body without a variance when the modification affords greater convenience or comfort for, and does not compromise the safety of, pedestrians or bicyclists.

(4) *Connections within development*. Connections within developments shall be provided as required in divisions (a) through (c), below:

(a) Walkways shall connect all building entrances to one another to the extent practicable;

(b) Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections; and

(c) Large parking areas shall be broken up so that no contiguous parking area exceeds 3 acres. Parking areas may be broken up with plazas, large landscape areas with pedestrian access ways (i.e., at least 20 feet total width), streets, or driveways with street-like features, street-like features, for the purpose of this section, means a raised sidewalk of at least 4 feet in width, 6-inch curb, accessible curb ramps, street trees in planter strips or tree wells, and

pedestrian-oriented lighting.

(C) *Easements. Pedestrian and bicycle ways.* Then desirable for public convenience and access, a pedestrian or bicycle way easement may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block, or to otherwise provide appropriate circulation. To ensure safe, direct, and convenient pedestrian circulation, all developments shall provide a continuous pedestrian system. The pedestrian system shall be based on the standards below:

(1) *Continuous walkway system.* The pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property with a previously reserved public access easement for this purpose.

(2) *Safe, direct, and convenient.* Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets, based on the following definitions:

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

(b) **SAFE AND CONVENIENT.** Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.

(c) **PRIMARY ENTRANCE** for commercial, industrial, mixed use, public, and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.

(d) **PRIMARY ENTRANCE** for residential buildings is the front door (i.e., facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the "primary entrance" may be a lobby, courtyard, or breezeway which serves as a common entrance for more than one dwelling.

(3) *Connections within development.* Connections within developments shall be provided as required in divisions (a) through (c), below:

(a) Walkways shall connect all building entrances to one another to the extent practicable.

(b) Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections.

(c) Large parking areas shall be broken up so that no contiguous parking area exceeds 3 acres. Parking areas may be broken up with plazas, large landscape areas with pedestrian access ways (i.e., at least 20 feet total width), streets or driveways with street-like features, street-like features for the purpose of this section, means a raised sidewalk of at least 4 feet in width, 6-inch curb, accessible curb ramps, street trees in planter strips or tree wells, and pedestrian-oriented lighting.

(Ord. passed 4-17-1992; Am. Ord. 2011-04-02, passed 4-12-2011) Penalty, see § 152.999

§ 152.054 BUILDING SITES.

(A) *Size and shape.* The size, width, shape, and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the residential lot size provisions of the zoning ordinance and Comprehensive Plan with the following exceptions.

(1) In areas that will not be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and shall take into consideration problem of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by subsurface or other means.

(2) Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and service facilities required by the type of use and development contemplated.

(B) *Access.* Each lot and parcel shall abut upon a street other than an alley for a width of at least 20 feet.

(C) *Through lots and parcels.* Through lots and parcels shall be avoided except where they are essential to provide separation of development from major traffic arterials or adjacent incompatible activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 5 feet wide and across which there shall be no right of access may be required along the line of building sites abutting such a traffic artery or other incompatible use.

(D) *Lot and parcel side lines.* The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curves streets they shall be radial to the curve.

(E) *Flag lots.*

(Ord. passed 4-17-1992) Penalty, see § 152.999

§ 152.055 GRADING OF BUILDING SITES.

Grading of building sites, and excavation of the placement of fill, shall conform to the requirements of Chapter 70 of the Uniform Building Code, hereby adopted by reference, and to the following standards, unless physical conditions demonstrate the propriety of other standards or methods of grading, including but not limited to, retaining walls, stabilized slopes, and vegetative cover:

(A) Finish and fill cut slopes shall not exceed 1 foot vertically to 2 feet horizontally; and

(B) The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

(Ord. passed 4-17-1992) Penalty, see § 152.999

§ 152.056 BUILDING LINES.

If building setback lines in excess of those set forth in the City Zoning Ordinance are to be established in a subdivision, they shall be included in the deed restrictions.

(Ord. passed 4-17-1992) Penalty, see § 152.999

§ 152.057 LARGE BUILDING SITES.

In dividing tracts into large lots or parcels which at some future time are likely to be again divided, the Planning Commission may require that the blocks be of the size and shape, be so divided into building sites and contain the site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size.

(Ord. passed 4-17-1992)

§ 152.058 LAND FOR PUBLIC PURPOSES.

(A) Land subject to flooding, wetland, or land adjacent to a street, highway, or other incompatible land use, or environmentally sensitive or unusual terrain unsuitable as a park or recreation area, and unsuitable for real estate development or improvement shall be preserved for its proper use as flood control land or open space and dedicated to the public for the use. The Planning Commission shall also require a dedication of land for public park and recreation purposes. The public park dedication shall not exceed 15% of the buildable land area within the subdivision.

(B) Where a park playground, school, or other public use is determined to be needed in whole or in part within a subdivision, to carry out the goals and policies of the Banks Comprehensive Plan, the subdivider shall dedicate and reserve adequate space for the purpose, provided however, that the city or other public authority shall thereupon declare its intention to utilize the area within the land division when the Planning Commission finds the requirements to be reasonably necessary for the public health and safety. Where the city or other public authority has declared its intention to acquire the area, it shall proceed to perfect the title or a contract right to the same within 3 years from the date of platting, and failing such, this reservation shall automatically expire. The public body shall expeditiously proceed, within its financial ability, to consummate the acquisitions.

(Ord. passed 4-17-1992; Am. Ord. passed 1-14-1997)

§ 152.059 PUBLIC IMPROVEMENTS.

All utilities shall be installed underground unless otherwise approved by the Planning Commission. Plans and specifications for public improvements are subject to approval by the City Engineer. Where feasible, water mains shall be looped. Sizing and spacing of waterlines and fire hydrants is subject to review by the Fire Chief. In addition, sanitary sewer facilities, storm drainage and erosion control facilities are subject to approval by the Unified Sewerage District. Erosion control measures are required in accordance with City of Banks Resolution No. 12-89.

(Ord. passed 4-17-1992) Penalty, see § 152.999

§ 152.060 STREET TREES.

Street trees shall be installed by the subdivider at a spacing of 30 feet on center within the parking strip of all streets. Species and size of proposed street trees shall be indicated on a landscaping plan to be submitted as part of the tentative subdivision plan.
 (Ord. passed 4-17-1992) Penalty, see § 152.999

§ 152.061 VEHICLE STORAGE AREA.

In subdivisions of more than 20 dwelling units, the Planning Commission may require that a common area be set aside for the storage of vehicles such as recreational vehicle, boats, trailers, or vehicle in excess of the number of vehicles for which adequate off-street parking space has been otherwise provided.
 (Ord. passed 4-17-1992)

§ 152.062 BICYCLE PARKING.

All uses that are subject to site design review shall provide bicycle parking, in conformance with the standards in the table below, and following subsections.

(A) *Minimum required bicycle parking spaces.* Uses shall provide long- and short-term bicycle parking spaces, as designated in Table 3. Where 2 options are provided (e.g., 2 spaces, or 1 per 8 bedrooms), the option resulting in more bicycle parking is used.

Use Categories	Specific Uses	Long-term spaces (Covered or enclosed)	Short-term spaces (near building entry)
Residential Categories			
Household Living	Multifamily	1 per 4 units	2, or 1 per 20 units
Group Living		2, or 1 per 20 bedrooms	None
	Dormitory	1 per 8 bedrooms	None
Commercial Categories			
Retail Sales and Service		2, or 1 per 12,000 sq. ft. of floor area	2, or 1 per 5,000 sq. ft. of floor area
	Lodging	2, or 1 per 20 rentable rooms	2, or 1 per 20 rentable rooms
Office		2, or 1 per 10,000 sq. ft. of floor area	2, or 1 per 40,000 sq. ft. of floor area
Commercial Outdoor Recreation		8, or 1 per 20 auto spaces	None
Major Event Entertainment		8, or 1 per 40 seats or per CU review	None

Industrial Categories			
Manufacturing and Production		2, or 1 per 15,000 sq. ft. of floor area	None
Warehouse and Freight Movement		2, or 1 per 40,000 sq. ft. of floor area	None
Institutional Categories			
Basic Utilities	Bus transit center	8	None
	Park and ride	8, or 5 per acre	None
Community Service		2, or 1 per 10,000 sq. ft. of floor area	2, or 1 per 10,000 sq. ft. of floor area
Parks (active recreation areas only)		None	8, or per CU review

Use Categories	Specific Uses	Long-term spaces (Covered or enclosed)	Short-term spaces (near building entry)
Schools	Grades 2-5	1 per classroom, or per CU review	1 per classroom, or per CU review
	Grades 6-12	2 per classroom, or per CU review	4 per school, or per CU review
Colleges	Excluding dormitories (see Group Living, above)	2, or 1 per 20,000 sq. ft. of net building area, or per CU review	2, or 1 per 10,000 sq. ft. of net building area, or per CE review
Medical Centers		2, or 1 per 70,000 sq. ft. of net building area, or per CU review	2, or 1 per 40,000 sq. ft. of net building area, or per CU review
Religious Institutions and Places of Worship		2, or 1 per 4,000 sq. ft. of net building area	2, or 1 per 2,000 sq. ft. of net building area
Daycare		2, or 1 per 10,000 sq. ft. of net building area	None
Other Categories			
Other Categories	Determined through Land Use Review, Site Design Review, or CU Review, as applicable		

(B) *Exemptions.* This section does not apply to single-family and two-family housing (attached, detached, or manufactured housing), home occupations, agriculture and livestock uses.

(C) *Location.* Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or 50 feet, whichever is less. Long-term (i.e., covered) bicycle parking should be incorporated whenever possible into building design. Short-term bicycle parking, when allowed within a public right-of-way, should be coordinated with the design of street furniture, as applicable.

(D) *Design.* “Inverted U” or “staple” style racks should be considered. Bicycle racks shall provide a secure point of contact so that both the frame and wheel of a bicycle may be locked to the rack using a standard U lock. Bicycle racks are recommended to provide two points of contact between the rack and the bicycle in order to hold the bicycle securely and prevent pivoting or tipping. Individual “inverted U” or “staple” style racks shall be placed to encourage bicycles to be parked parallel to the rack and achieve maximum capacity. Where multiple racks are placed together, racks shall be placed parallel to each other spaced on 4 foot centers to allow access to both sides of each rack. Racks shall be placed so that a 6 foot bicycle may be parked without interference from nearby walls or fixed objects.

(E) *Visibility and security.* Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.

(F) *Options for storage.* Long-term bicycle parking requirements for multiple family uses and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building.

(G) *Lighting.* For security, bicycle parking shall be at least as well lit as vehicle parking.

(H) *Reserved areas.* Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.

(I) *Hazards.* Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.

(Ord. 2011-04-02, passed 4-12-2011; Am. Ord. 2015-10-02, passed 11-10-2015)

EXCEPTION AND VARIANCES

§ 152.075 VARIANCE APPLICATION.

(A) The Planning Commission or City Council, as the case may be, may authorize condition variances to requirements of these regulations. Application for a variance shall be made by a petition of the land divider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative plan.

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

(1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity, and result from tract size or shape, topography of other circumstances over which the owners of property since enactment of this chapter have had no control.

(2) The variance is necessary for the preservation of a property right of the application substantially the same, as owners of other property in the same vicinity possess.

(3) The variance would not be materially detrimental to the purposes of this chapter, or to property in the same vicinity in which the property is located or otherwise conflict with the

objectives of any city plan or policy.

(4) The variance requested is the minimum variance which would alleviate the hardship.
(Ord. passed 4-17-1992)

§ 152.076 ACTION ON VARIANCES.

In granting or denying a variance, the Planning Commission shall make a written record of its findings and the facts in connection therewith, and shall describe the variances granted and the conditions designated. The city shall keep the findings on file as a matter of public record.
(Ord. passed 4-17-1992)

ADMINISTRATION

§ 152.090 APPROVING AGENCY.

The City Planner and City Planning Commission shall review, recommend, and approve or disapprove land division plans and shall administer the provisions of these regulations. Whenever a land division plan is disapproved, a similar application cannot be submitted for the property following a 6-month period from the disapproval date, unless the reason(s) for the denial has been corrected by the applicant. The corrected application will be considered as a new application.

(Ord. passed 4-17-1992; Am. Ord. passed 1-14-1997)

§ 152.091 APPEAL.

An action or ruling of the City Planner or the Planning Commission authorized by this chapter may be appealed to the Planning Commission or City Council respectively by filing written notice of appeal with the City Recorder within 10 days after the City Planner or Planning Commission has rendered its decision. If no appeal is taken within the 10-day period, the decision of the Planning Commission or City Council shall receive a report and recommendation from the City Planner or Planning Commission and shall hold a public hearing on the appeal of the public hearing shall be by publication in a newspaper of general circulation.

(Ord. passed 4-17-1992)

§ 152.092 FORMS OF PETITIONS, APPLICATIONS, AND APPEALS.

Petitions, applications, and appeals provided for in these regulations shall be made on forms provided for this purpose or as otherwise prescribed by the Planning Commission in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record.

(Ord. passed 4-17-1992)

§ 152.093 HEARINGS.

Notice of the purpose and time and place of any public hearing required by these regulations

shall be given by the City Recorder in the following manner.

(A) Notice of public hearing shall be mailed not less than 10 days prior to the hearing to owners of property within 250 feet of the boundaries of the area proposed to be partitioned or subdivided. The list of property owners shall be based on records at the Washington County Department of Assessment and Taxation.

(B) In addition, notices shall be posted at 1 or more locations in the city, including City Hall and the site proposed to be partitioned or subdivided, at least 10 days prior to the hearing. (Ord. passed 4-17-1992)

§ 152.999 PENALTY.

(A) Violation of the provisions of these regulations or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 in addition shall pay all costs and expenses involved in the case. Each day the violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains the violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(B) Nothing herein contained shall prevent the city from taking the other lawful action as is necessary to prevent or remedy any violation. (Ord. passed 4-17-1992)

CHAPTER 153: COMPREHENSIVE PLAN

Section

153.01 Adoption by reference

§ 153.01 ADOPTION BY REFERENCE.

The city's comprehensive plan is hereby adopted by reference and incorporated herein as if set out in full.