

# CHAPTER 7: LAND USE AND DEVELOPMENT CODE

## SECTION 7.2.1 - LAND USE ZONING

### 7.2.101 GENERAL PROVISIONS

#### 7.2.101.01 Interpretation of Uses

- A. Types of Uses. Within each zone, uses are classified as "permitted," "special permitted" and "conditional." Further, uses are functionally classified by description of the particular activity (such as "single-family residence").
- B. Interpretation of Uses. Where a use is not otherwise defined in Section 7.1.2, the words of this zoning Code describing such use are to be given their ordinarily accepted meaning, except where the context in which they are used otherwise clearly requires.
- C. Prohibited Uses. Uses not specifically identified as permitted, special permitted or conditionally permitted within the zone, or, otherwise allowed through interpretation, shall be considered prohibited uses.

## 7.2.102 SINGLE FAMILY RESIDENTIAL - (R-1)

### 7.2.102.01 Purpose

The purpose of the R-1 zone is to allow development of single family homes on individual lots provided with urban services at urban densities. Other uses compatible with residential development are also appropriate. These areas are designated as Residential in the Comprehensive Plan.

### 7.2.102.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Code, are permitted in the R-1 zone:

- A. One detached single family dwelling on a separate lot or parcel.
- B. Residential homes.
- C. Child day care service, including family day care provider, for 12 or fewer children.

### 7.2.102.03 Special Permitted Uses

The following uses, when developed under the applicable standards in this Code and special development requirements, are permitted in the R-1 zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7. 2.203 and subject to the provisions in Section 7.2.309.
- D. Two-family dwellings (duplexes) subject to the following:
  - 1. The duplex shall be located on a corner lot.
  - 2. Access shall be subject to the following:
    - a. Where both adjacent streets are of the same street designation (e.g. local street) the duplex may obtain access from each adjacent street or share a single access.
    - b. Where the adjacent streets are of a different street designation (e.g. local and collector) a shared access shall be required from the lower street designation.
- E. The following uses, subject to the applicable standards in Section 7.2.4:
  - 1. Manufactured homes on individual lots (Section 7.2.404)
  - 2. Home occupations (Section 7.2.406).
  - 3. Owner occupied short-term rentals (Section 7.2.417) (*Amended Effective 06/06/16, Ordinance 633*)

### 7.2.102.04 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Private or public elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreation facilities; and other public or semi-public uses.
- C. Child day-care services for 13 or more children.
- D. Churches.
- E. Small wind energy systems including compliance with Section 7.2.413.  
*Added ORD 608 effective 10/06/11*

7.2.102.05 Dimensional Standards

- A. Minimum Lot Dimension and Height Requirements  
*(Revised by Ordinance #541, 6/03/02 - Effective 07/03/02)*

DIMENSION	Residential Uses	Non-Residential Uses
Lot Size	7,000 sq ft - Single Family 9,000 sq. ft. - Duplex	(1)
Average Width	50	(1)
Average Depth	80	(1)
Maximum Height	35 feet	35 feet

- (1) Adequate to comply all applicable development standards

- B. Minimum Yard Setback Requirements

SETBACKS	Residential Uses	Non-Residential Uses
Front	15 feet	20 feet
Side	5 feet	10 feet
Rear	15 feet - 1-story 20 feet - 2-story	20 feet
Street-side	15 feet	20 feet
Garage (1)	20 feet	20 feet

- (1) The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

7.2.102.06 Development Standards

All development in the R-1 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Manufactured home parks and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:
  - Maximum building coverage (primary building): 35%
  - Maximum parking area coverage (including garage): 30%
  - Combined maximum lot and parking area coverage: 60%
- E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306.
- F. Density: Subdivisions shall be developed at a minimum density of four dwelling units per acre with a maximum density of six dwelling units per acre.
- G. Redevelopment Plan: A redevelopment plan shall be required to place a single family home on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:
  - 1. The redevelopment plan shall indicate how the remaining undeveloped portion of the property could be developed at a density consistent with the requirements of the R-1 zone.
  - 2. The plan may be revised or modified at the time of development provided the revised plan complies with the applicable development requirements of the R-1 zone.

## 7.2.103 LIMITED DENSITY RESIDENTIAL - (R-2)

### 7.2.103.01 Purpose

The R-2 zone is intended to provide for detached and attached dwellings on a lot or multiple dwellings on a lot at an intermediate density. Other uses compatible with residential development are also appropriate. R-2 zones are located in areas designated Residential in the Comprehensive Plan.

### 7.2.103.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the R-2 zone:

- A. One detached single family dwelling on a separate lot or parcel.
- B. Buildings with two or more dwelling units.
- C. Combination of permitted attached or detached dwellings on a lot.
- D. Residential homes and facilities.
- E. Child day care service, including family day care provider, for 12 or fewer children.

### 7.2.103.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the R-2 zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses, subject to the applicable standards in Section 7.2.4:
  - 1. Accessory dwelling unit (Section 7.2.402). (*Amended Effective 06/06/16, Ord 633*)
  - 2. Attached dwelling units (Section 7.2.403).
  - 3. Manufactured homes on individual lots (Section 7.2.404).
  - 4. Manufactured home parks (Section 7.2.405).
  - 5. Home occupations (Section 7.2.406).
  - 6. Owner occupied short-term rentals (Section 7.2.406). (*Amended Effective 06/06/16, Ordinance 633*)

### 7.2.103.04 Conditional Uses. (*Amended ORD 584, Effective 12/3/07*)

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private elementary schools.

- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day-care services for 13 or more children.
- D. Churches.
- E. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provision for multi-family residential development. *(Amended effective 12/3/07, Ordinance #584)*
- F. Small wind energy systems including compliance with Section 7.2.413. *(Added ORD 608 effective 10/06/11)*

7.2.103.05 Dimensional Standards

- A. Minimum Lot Dimension and Height Requirements. *(Revised by Ordinance #541, 6/03/02 - Effective 07/03/02)*

DIMENSION	Single Family	Duplex	Multi-Family	Non-Residential
Lot Size	6000 sq. ft. (1)	7000 sq. ft.	9000 sq. ft. (2)	(3)
Maximum Height	35 feet	35 feet	35 feet	35 feet

- (1) Attached single family dwellings shall have a minimum lot area of 3500 square feet.
- (2) Multi-family development must comply with the density standard in Section 2.103.06.
- (3) Parcel size shall be adequate to contain all structures within the required yard setbacks.

- B. Minimum Yard Setback Requirements

SETBACKS	Single Family	Duplex	Multi-Family	Non-Residential
Front	15 feet	15 feet	15 feet	20 feet
Side	5 feet (1)	5 feet	(3)	10 feet
Rear	(2)	(2)	(3)	20 feet
Street-side	15 feet	15 feet	15 feet	20 feet
Garage (4)	20 feet	20 feet	20 feet	20 feet

- (1) Zero side yard dwelling units are subject to the setback provisions in Section 7.2.404.
- (2) The rear yard setback shall be as follows: 15 feet for a 1-story home; 20 feet for 2 or more stories.
- (3) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.
- (4) The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

7.2.103.06 Development Standards

All development in the R-2 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Manufactured home parks, multi-family residential development and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:

Maximum building coverage (primary building):	40%
Maximum parking area coverage (including garage):	35%
Combined maximum lot and parking area coverage:	70%

- E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. Multiple family developments shall comply with provisions in Section 7.2.306.06. *(Amended ORD 530 06/04/01, Effective 07/04/01)*
- F. Density: The following density provisions shall apply:
  - 1. Subdivisions: The minimum density shall be 5 units per acre; the maximum density shall be 7 units per acre. *(Amended ORD 584, Effective 12/3/07)*
  - 2. Manufactured home parks: The minimum density shall be 6 units per acre; the maximum density shall be 10 units per acre.
  - 3. Multi-family development: The minimum density shall be 8 units per acre; the maximum density shall be 12 units per acre.
- G. Redevelopment Plan: A redevelopment plan shall be required to place a single family home on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:
  - 1. The redevelopment plan shall indicate how the remaining undeveloped portion of the property can be developed at a density consistent with the requirements of the R-2 zone.
  - 2. The plan may be revised or modified at the time of development provided the revised plan complies with the density requirement of the R-2 zone.

## 7.2.104 MEDIUM DENSITY RESIDENTIAL (R-3)

### 7.2.104.01 Purpose

The R-3 zone is intended for multiple family development on a parcel at higher residential densities. Other uses compatible with residential development are also appropriate. RM zoned property is suited to locations near commercial areas and along collector, and preferably, arterial streets. The appropriate Comprehensive Plan designation is Residential.

### 7.2.104.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the R-3 zone:

- A. Residential buildings containing two or more dwelling units.
- B. Residential homes and facilities.
- C. Child day care service, including family day care provider, for 12 or fewer children.

### 7.2.104.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the RM zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses subject to the applicable standards in Section 7.2.4:
  - 1. Manufactured home parks (Section 7.2.405).
  - 2. Home occupations (Section 7.2.406).
  - 3. Owner occupied short-term rentals Section (7.2.417). *(Amended Effective 06/06/16, Ordinance 633)*

### 7.2.104.04 Conditional Uses. *(Amended ORD 584, Effective 12/3/07)*

The following uses require a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day care service for 13 or more children.
- D. Churches.

- E. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provisions for multi-family residential development. *(Amended effective 12/3/07, Ordinance #584)*
- F. Small wind energy systems including compliance with Section 7.2.413. *(Amended ORD 608 effective 10/06/11)*

7.2.104.05 Dimensional Standards

A. Minimum Lot Dimension and Height Requirements

DIMENSION	Residential	Non-Residential
Lot Size	6,000 square feet (1) (2)	Adequate to comply with all applicable development standards
Maximum Height	35 feet	35 feet

- (1) Multi-family development must comply with the density standard in Section 7.2.104.06.
- (2) Manufactured home parks must comply with the density requirements in Section 7.2.104.06 and the minimum area requirements in Section 7.2.403.

B. Minimum Yard Setback Requirements

SETBACKS	Residential	Non-Residential
Front	(1)	20 feet
Side	(2)	10 feet
Rear	(2)	20 feet
Street-side	20 feet	20 feet
Garage (3)	20 feet	20 feet

- (1) 15 feet where the front of the dwelling units face the street; otherwise 20 feet.
- (2) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.
- (3) The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

7.2.104.06 Development Standards

All development in the R-3 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.

- C. Site Development Review: All uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:
  - Maximum building coverage (primary building): 45%
  - Maximum parking area coverage (including garage): 35%
  - Combined maximum lot and parking area coverage: 75%
- E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. Multiple family developments shall comply with provisions in Section 7.2.306.06. *(Amended ORD 530 06/04/01, Effective 07/04/01)*
- F. Density: The following density provisions shall apply:
  - 1. Manufactured home park: The minimum density shall be 6 units per acre; the maximum density shall be 10 units per acre.
  - 2. Multi-family development: The minimum density shall be 12 units per acre; the maximum density shall be 20 units per acre.

## 7.2.105 COMMERCIAL RESIDENTIAL ZONE (CR)

### 7.2.105.01 Purpose

To provide areas for the development of a mixture of single family, multi-family, and manufactured homes, and limited retail and service commercial uses.

### 7.2.105.02 Permitted Uses. *(Amended ORD 584, Effective 12/3/07)*

The following uses, when developed under the applicable development standards in the Code, are permitted in the CR zone:

#### A. The following residential uses are permitted in the CR zone:

1. Single family dwellings, detached
2. Duplexes.
3. Multi-family dwellings.
4. Residential care homes and facilities
5. Child day care service, including family day care provider, for 12 or fewer children.
6. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provisions for multi-family residential development. *(Amended ORD 584, Effective 12/3/07)*

#### B. The following commercial uses are permitted:

1. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios (excepting a broadcast antennae or dish), and, miscellaneous offices such as detective agencies, drafting services or contractors offices.
2. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
3. Banks and other financial institutions.
4. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, clothing, jewelry, gift, and other types retail activities but excluding liquor stores.
5. Restaurants, bakeries, coffee and snack shops but excluding taverns, bars and similar establishments.
6. Retail and service related stores such as TV and radio sales and service, bicycle shop, gunsmith, upholstery shop or other similar activities where a service department is customarily a secondary activity to the retail use.

7. Service related businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), parcel service, printing or photocopying, video rental, or other activities where the primary activity is the providing of a service to retail customers.
8. Accessory structures and uses customarily provided for retail activities.

7.2.105.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the CR zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses subject to the applicable standards in Section 7.2.4:
  1. Accessory dwelling units (Section 7.2.402). *(Added Effective 03/08/17 – Ordinance 639)*
  2. Attached dwelling units (Section 7.2.403).
  3. Manufactured homes on individual lots (Section 7.2.404).
  4. Home occupations (Section 7.2.406).
  5. Owner occupied short-term rentals (Section 7.2.417). *(Amended Effective 06/06/16, Ordinance 633)*
  6. Short-term rentals (Section 7.2.417). *(Amended Effective 06/06/16, Ordinance 633)*
- E. Small wind energy systems, subject to the provisions in Section 7.2.413. *(Amended ORD 608, Effective 10/06/1)*
- F. Drive-through windows and walk-up windows as part of a permitted use, subject to the provisions in Section 7.2.414 and 7.2.415 respectively. *(Added ORD 610 effective 4/2/12)*

7.2.105.04 Conditional Uses *(Amended ORD 589, Effective 4/2/09)*

The following uses require a Conditional Use Permit:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day care service for 13 or more children.
- D. Churches.
- E. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage. *(Amended ORD 589, Effective 4/2/09)*

- F. Commercial activities which do not comply with the provisions in Section 7.2.105.02.B. *(Amended ORD 610, Effective 4/2/12)*
- G. Wineries with retail sales. *(Amended ORD 583, Effective 9/6/07)*

7.2.105.05 Dimensional Standards

The following dimensional standards shall be the minimum requirements for all development in the CR District.

A. Minimum Lot Area and Density Standards

- 1. Single-family dwelling, detached 5,000 square feet  
Single-family dwelling, attached 3,500 square feet
- 2. Duplex 7,000 square feet
- 3. Multi-family dwelling 9,000 square feet  
(Multi-family development must comply with the density standards in Section 7.2.105.06).
- 4. Commercial Use 5,000 square feet
- 5. Mixed commercial and residential: Shall comply with the minimum for multi-family development.
- 6. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks.

B. Minimum Yard Setback Requirements

- 1. Residential Uses
  - a. Front Yard 15 feet
  - b. Garage setback 20 feet
  - c. Rear Yard 10 feet
  - d. Side Yard (interior) 5 feet
  - e. Side Yard (adjacent to street) 15 feet
- 2. Commercial Uses
  - a. Front Yard None
  - b. Rear Yard
    - i. Abutting a non-residential district None
    - ii. Abutting a residential district 10 feet
  - c. Side Yard

	i. Abutting a non-residential district	None
	ii. Abutting a residential district	10 feet
3.	Mixed commercial and residential	
	a. Front Yard	5 feet
	b. Rear Yard	
	i. Abutting a non-residential district	5 feet
	ii. Abutting a residential district	10 feet
	c. Side Yard	
	i. Abutting a non-residential district	5 feet
	ii. Abutting a residential district	10 feet
4.	Public	
	a. Front Yard	15 feet
	b. Garage setback	20 feet
	c. Rear Yard	10 feet
	e. Side Yard (interior)	5 feet
	f. Side Yard (adjacent to street)	15 feet
C.	Maximum Structure Height	
	1. Principal Structure	30 feet
	2. Accessory Structure	20 feet

7.2.105.06 Development Standards

A. Use Restrictions. The following use restrictions shall apply:

1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a permitted or conditionally permitted commercial business. *(Amended ORD 583, Effective 9/6/07)*

B. Commercial Uses. Commercial uses in the CR zone shall comply with the following additional standards: *(Amended ORD 630, Effective 12/2/15)*

1. All business, service, processing or merchandise displays shall be conducted wholly within an enclosed building, except for the following:
  - a) Off-street parking and loading.

- b) Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, or areas of a permitted drive-through window or walk-up window.
  - c) Outdoor seating for a permitted eating and drinking establishment, subject to screening and buffering provisions in Section 7.2.306.04. The greater of 12 seats or 75 percent of the indoor seating capacity of the establishment is allowed for outdoor seating. (Added *ORD 630, Effective 12/2/15*)
2. The maximum lot size for any commercial use shall be one acre.
  3. Any new commercial structure shall maintain a residential appearance. Metal buildings, pole barns and similar structures are prohibited within the CR zone.
  4. Commercial uses shall not engage in the manufacturing, processing, assembly or compounding of products other than those clearly incidental to the business conducted on the premises.
  5. The commercial use shall have a maximum floor area of 2,500 square feet per lot.
  6. Any outside storage space maintained in the CR Zone shall be enclosed by a 6 foot sight-obscuring fence or a hedge row not less than 3 feet high and capable of attaining a height of 6 feet.
- C. Mixed Commercial and Residential Uses. Development of mixed commercial and residential uses shall be subject to the provisions in item B., above.
- D. Unless otherwise exempted, all development in the CR Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:
1. Off-street parking. Parking shall be as specified in Section 7.2.303.
  2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
  3. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with the provisions of Section 7.2.307.
  4. Site Development Review: Multi-family and/or commercial uses within the CR Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1. In addition, any conversion of an existing residence which includes a commercial use shall require a site development review.
  5. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:
 

a.	Residential	75%
b.	Commercial	85%
c.	Mixed Residential and Commercial	80%

6. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306 and shall comply with the following coverage requirements:

a.	Residential	25%
b.	Commercial	15%
c.	Mixed Residential and Commercial	20%

Multiple family developments shall comply with provisions in Section 7.2.306.06.

*(Added ORD 530 6/4/01 - effective 7/4/01)*

7.2.106 COMMERCIAL (C)

7.2.106.01 Purpose

The Commercial (C) Zone is the primary commercial zone within the City. The zone is specifically designed to provide area for commercial activities to serve the residents of the City and the surrounding area. The Commercial Zone is suitable for the Commercial Plan designation.

7.2.106.02 Permitted Uses (*Amended ORD 583, Effective 9/6/07*)

The following uses, when developed under the applicable development standards in the Zoning Code, are permitted in the C zone:

- A. Pre-schools, nurseries and kindergartens.
- B. Non-profit member organizations, such as business associations, labor unions, political organizations or fraternal lodges.
- C. Public and semi-public buildings, structures and uses, such as parks, parking, municipal offices, libraries, police and fire stations and hospitals.
- D. Public utility structures and buildings, such as pump stations, reservoirs, electric substations, and necessary right-of-way for public utilities.
- E. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, newspaper, periodical, publishing and printing offices, and, similar business offices.
- F. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
- G. Banks services, brokerages, loan companies, investment companies and other financial institutions.
- H. Hotels and motels.
- I. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, hobby or photography store, florist and garden supply including greenhouse, liquor store, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, jewelry, gift, and other types retail activities.
- J. Restaurants, drive-in, taverns, snack shops and other types of eating and drinking establishments, including entertainment facilities. (*Amended ORD 610 effective 4/2/12*)
- K. Retail and service related stores such as TV and radio sales and service, bicycle shop, equipment rental or other similar activities where a service department is customarily a secondary activity to the retail use.
- L. Service related businesses such as barber shops, beauty shops, advertising agencies, printing or photocopying, or other activities which provide a service to retail customers.
- M. Residences limited to second or upper stories.
- N. Wineries with retail sales. (*Amended ORD 583, Effective 9/6/07*)
- O. Churches (*Added ORD 619, Effective 09/02/14*)

7.2.106.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the C zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses subject to the applicable standards in Section 7.2.4:
  - 1. Home occupations (Section 7.2.406).
  - 2. RV Parks (Section 7.2.408).
  - 3. Owner occupied short-term rentals (Section 7.2.417). (*Amended Effective 06/06/16, Ordinance 633*)
  - 4. Short-term rentals (Section 7.2.417). (*Amended Effective 06/06/16, Ordinance 633*)
- E. Small wind energy systems, subject to the provision in Section 7.2.413. (*Added ORD 608 effective 10/06/11*)
- F. Drive-through windows and walk-up windows as part of a permitted use, subject to the provisions of Section 7.2.414 and 7.2.415 respectively. (*Added ORD 610 effective 4/2/12*)

7.2.106.04. Conditional Uses: (*Amended ORD 583, Effective 9/6/07*)

The following uses require a Conditional Use Permit:

- A. Automobile service station, including towing service and vehicle washing and polishing facilities, and services.
- B. Automobile, truck, motorcycle, trailer, agricultural equipment, recreational vehicle and boat sales, lease and rentals.
- C. Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.
- D. Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.
- E. Part and accessory sales for automobiles, trucks, motorcycles, trailers, agricultural equipment, recreational vehicles and boats, including retail tire sales; but, specifically prohibiting junk yards, wrecking yards, or auto salvage and restoration yards.
- F. Laundry or dry cleaning.
- G. Warehouse for short term storage, including mini-warehouse.
- H. Lumber yard and contracting supplies for lumber, stone, masonry or metal.
- I. Special trade contracting facilities such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.

- J. Cabinet shop where activities are conducted wholly within a building.
- K. Welding and blacksmith shop.
- L. Mortuary
- M. Small-scale manufacturing businesses conforming to requirements in Section 7.2.411. *(Amended ORD 583, Effective 9/6/07)*
- N. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage. *(Amended 4/2/09, Ordinance #589)*
- O. Wireless Communication Facility, subject to the provisions in Section 7.2.412. *(Added ORD 608 effective 10/06/11)*
- P. Marijuana Producers, Marijuana Processers, Marijuana Wholesalers, and Marijuana Retailers, subject to the provisions in Section 7.2.416. *(Amended Effective 06/06/16, Ordinance 633)*

7.2.106.05 Dimensional Standards

- A. Lot Dimension and Height Requirements
  - 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
  - 2. Maximum Height. The maximum height shall be 35 feet.
- B. Minimum Yard Setback Requirements
  - 1. Front: None.
  - 2. Side, Rear Yard: None, provided the setback shall be no less than the minimum rear yard setback of the zone on the adjacent property.

7.2.106.06 Development Standards

- A. Development Exemptions: Commercial property located in the Central Business Area shall be subject to the requirements in Section 7.2.111.
- B. Use Restrictions. The following use restrictions shall apply:
  - 1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a commercial business or small-scale manufacturing where permitted in the zone. *(Amended ORS 583, Effective 9/6/07)*
  - 2. All business, service, processing or merchandise displays shall be conducted wholly within an enclosed building, except for the following:
    - a. Off-street parking and loading.

- b. Walk-up and drive-through windows as part of a permitted use with the window meeting the required standards of Sections 7.2.414 and 7.2.415 respectively. *(Amended ORD 610 effective 4/2/12)*
  - c. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, or areas used for an approved drive-through or walk-up window. *(Amended ORD 610 effective 4/2/12)*
  - d. Outdoor cooking and seating for a permitted eating and drinking establishment, subject to screening and buffering provisions in Section 7.2.306.04. The greater of 12 seats or 75 percent of the indoor seating capacity of the establishment is allowed for outdoor seating. *(Amended ORD 630, Effective 12/2/15)*
  - e. Outdoor display customary to a business (e.g. auto sales).
- C. Unless otherwise exempted, all development in the C Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:
- 1. Off-street parking. Parking shall be as specified in Section 7.2.303.
  - 2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
  - 3. Site Development Review: Development within the C Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1.
  - 4. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 90 percent. *(Amended ORD 610 effective 4/2/12)*
  - 5. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306. A minimum 10 percent of the property shall be landscaped. *(Amended ORD 610 effective 4/2/12)*

## 7.2.107 INDUSTRIAL (I)

### 7.2.107.01 Purpose

The purpose of the I Zone is to provide areas suitable for warehousing, primary and secondary processing, packaging, fabricating of finished goods and equipment with related outdoor storage and incidental sales. The Industrial zone is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to an arterial street or highway and where the noises, lights, odors, and traffic will not conflict with residential areas.

### 7.2.107.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Zoning Code, are permitted in the I zone:

- A. Dwelling for a caretaker or watchman on the premises being cared for or guarded.
- B. Commercial activities:
  - 1. Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.
  - 2. Warehouse for short term storage, including mini-warehouse.
  - 3. Lumber yard and contracting supplies for lumber, stone, masonry or metal.
  - 4. Special trade contracting facilities, such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.
  - 5. Cabinet shop.
  - 6. Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.
  - 7. Welding and blacksmith shop.
  - 8. Machine shop, and sales, service and repair of machinery
- C. Manufacturing and Assembly, Secondary Processing
  - 1. Food processing, including canning, freezing, drying, dairy products and similar food processing and preserving, beverage bottling facility, including warehousing and distribution. BUT EXCLUDING processes which involve the slaughter of animals.
  - 2. Textile mill products including apparel and other finished products made from fabrics and similar materials.
  - 3. Furniture and fixtures including retail wood products.
  - 4. Printing, publishing, and allied industries.
  - 5. Rubber and miscellaneous plastics.

6. Leather and leather goods (31) BUT EXCLUDING leather tanning and finishing.
  7. Cement, glass, clay and stone products manufacturing.
  8. Fabricated metal products, BUT EXCLUDING metal forgings, metal plating, coating and engraving, ordnance and accessories.
  9. Electrical and electronic equipment, machinery and supplies BUT EXCLUDING storage batteries and primary batteries, dry and wet.
  10. Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks.
  11. Freight terminals, including loading docks, storage, warehousing and wholesale distribution, cold storage lockers and similar personal storage facilities such as mini-storage warehouses.
- D. Wholesale trade and distribution facilities, BUT EXCLUDING trade and distribution involving:
1. Metals and minerals
  2. Machinery and equipment
  3. Scrap and waste material
  4. Farm-product raw materials
  5. Chemicals and allied products
  6. Petroleum and petroleum products

7.2.107.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the I zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. Small wind energy systems, subject to the provision in Section 7.2.413.  
*(Added ORD 608 effective 10/06/11)*

7.2.107.04 Conditional Uses

The following uses shall require a Conditional Use permit:

- A. Recycling depots, excluding composting.
- B. Wrecking, demolition, junk yards.
- C. Battery manufacture, sales and service.

- D. Petroleum products storage and distribution, including asphalt plants.
- E. Feed and seed facilities, grain elevators and storage; including agricultural chemical, fertilizer, insecticide storage and distribution
- F. Chemical manufacturing including agricultural chemicals, fertilizers and insecticides.
- G. Manufacture of primary and secondary wood products, including sawmills, paper and allied products.
- H. Auction yard.
- I. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage. *(Added Ordinance 589, Effective 3/2/09)*
- J. All uses not specifically identified as a permitted use in, or specifically excluded from, Section 7.2.107.02 or Section 7.2.107.03 may be established by a conditional use permit. *(Added Ordinance 589, Effective 3/2/09)*
- K. Wireless Communication Facility, subject to the provisions in Section 7.2.412. *(Amended ORD 608 effective 10/06/11)*
- L. Marijuana Producers, Marijuana Processers, Marijuana Wholesalers, and Marijuana Retailers, subject to the provisions in Section 7.2.416. *(Amended Effective 06/06/16, Ordinance 633)*

7.2.107.05 Dimensional Standards

A. Lot Dimension and Height Requirements

- 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
- 2. Maximum Height. 45 feet.

B. Minimum Yard Setback Requirements

ADJACENT PROPERTY USE				
SETBACKS	Single Family or Duplex	Multi-Family	Commercial	Industrial
Front	20 feet	20 feet	20 feet	20 feet
Side	(1), (2)	(1), (2)	(1)	(1)
Rear	(1), (2)	(1), (2)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

- (1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the I zone, the rear yard setback is 0 feet.
- (2) Yards adjacent to residential zones shall be contained by a sight-obscuring fence, wall, or hedge a minimum of 8 feet in height.

7.2.107.06 Development Standards

All development in the I Zone shall comply with the applicable provisions of this Code. The following includes referenced items as well as additional development requirements:

- A. Off-street Parking. Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Development within the I Zone shall be subject to the Site Development Review procedures in Section 7.3.1.
- D. Landscaping: A minimum of 10% of the property shall be landscaped, including all required setback areas. Landscaped areas shall be landscaped as provided in Section 7.2.309.
- E. Lot Coverage: The combined maximum building and parking area coverage shall not exceed 90%.
- F. Open Storage: Open storage of equipment and materials used for the manufacture or assembly of goods is prohibited in required setback areas. Otherwise, such storage shall be enclosed within a sight-obscuring fence, wall or berm a minimum of 8 feet in height.

## 7.2.108 PUBLIC (P)

### 7.2.108.01 Purpose

The purpose of the P (PUBLIC) zone is to provide areas appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. The Public zone is applicable to those properties designated Public in the Comprehensive Plan.

### 7.2.108.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Zoning Code, are permitted in the P zone:

- A. Parks, playgrounds and other recreational facilities.
- B. All public and governmental buildings such as fire stations, police stations, libraries, schools, hospitals, clinics, and community centers.
- C. Utility facilities necessary for public service except public power generation and treatment facilities.

### 7.2.108.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the I zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- C. Wireless Communication Facility, subject to the provisions in Section 7.2.412 and reviewed according to Section 7.3.106 (Site Development Review) and the evaluation requirements of subsection 7.3.106.06. *(Added ORD 608 effective 10/06/11)*
- D. Small wind energy systems, subject to the provisions in Section 7.2.413. *(Added ORD 608 effective 10/06/11)*

### 7.2.108.04 Conditional Uses

The following uses shall require a conditional use permit:

- A. Power generating facilities.
- B. Water and sewage treatment facilities.
- C. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage.
- D. Cemetery.

### 7.2.108.05 Dimensional Standards

- A. Lot Dimension and Height Requirements

1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
2. Maximum Height. 45 feet.

B. Minimum Yard Setback Requirements

ADJACENT PROPERTY USE

SETBACKS	Single Family or Duplex	Multi-Family	Commercial	Industrial
Front	20 feet	20 feet	20 feet	20 feet
Side	(1)	(1)	(1)	(1)
Rear	(1)	(1)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

- (1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the P zone, the rear yard setback is 10 feet.

7.2.108.06 Development Standards

All development in the P Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- A. Off-street Parking. Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Development within the P Zone shall be subject to the Site Development Review procedures in Section 7.3.1. Development of property for public uses consistent with a Master Plan adopted by the Dayton City Council shall not require a Site Development Review.
- D. Lot Coverage: The combined maximum building and parking area coverage shall not exceed 80%.
- E. Landscaping: A minimum of 20% of the property shall be landscaped, including all required setback areas. Landscaped areas shall be landscaped as provided in Section 7.2.309.
- F. Open Storage: Open storage of equipment and materials used for the manufacture or assembly of goods is prohibited in required setback areas. Otherwise, such storage shall be enclosed within a sight-obscuring fence, wall or berm a minimum of 8 feet in height.

## 7.2.110 LIMITED USE OVERLAY ZONE (LUO)

### 7.2.110.01 Purpose

The purpose of the Limited Use Overlay Zone is to reduce the list of permitted uses in a zone to those that are suitable for a particular location. Zones permit a number of uses without notification or opportunity for a hearing. These uses are included in the zone because they are considered basically equivalent in terms of the type and intensity of activity. However, on a particular property certain permitted uses may conflict with adjacent land uses. Rather than reject an otherwise acceptable zone change request because the proposed zone would permit an objectionable use, the Limited Use Overlay can be used to identify the appropriate uses and require a conditional use permit for other uses normally permitted in the zone. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.

### 7.2.110.02 Overlay Zone Requirements

When the Limited Use Overlay zone is applied, the uses permitted in the underlying zone shall be limited to those permitted uses specifically referenced in the order or ordinance adopting the Limited Use Overlay zone. Until the Overlay zone has been removed or amended, the only permitted uses in the zone shall be those specifically referenced in the adopting ordinance. Uses that would otherwise be permitted may only be allowed if a conditional use permit is approved.

### 7.2.110.03 Procedures and Criteria

The Limited Use Overlay zone is applied at the time the underlying zone is being changed. It shall not be necessary to mention in the hearing notice of a rezoning application that this overlay zone may be applied. The order or ordinance adopting the overlay zone shall include findings to the following:

- A. No zone has a list of permitted uses where all uses would be appropriate.
- B. The proposed zone is the best suited to accommodate the desired uses.
- C. It is necessary to limit the uses permitted in the proposed zone.
- D. The maximum number of acceptable uses in the zone have been identified and will be permitted.

The order or ordinance adopting the overlay zone shall by section reference, or by name, identify those permitted uses in the zone that will remain permitted uses. A permitted use description may be segmented to require a conditional use for distinct uses that may not be compatible.

### 7.2.110.04 Official Zoning Map

The official zoning map shall be amended to show an LUO suffix on any parcel where the Limited Use Overlay zone has been applied.

### 7.2.110.05 Site Plan Requirement

In addition to limiting the uses in the zone, it may be necessary to require City approval of the location of buildings, access and parking, screening and other site planning considerations in order to ensure the compatibility of the permitted uses with the area. This requirement may be

added by specific reference in the adopting order or ordinance. The document shall indicate any special concerns or locational requirements that must be addressed in the site plan and approved by the City.

7.2.110.06 Recorded Provisions

When a LUO zone is applied to a property, a copy of the decision and restrictions shall be recorded against the deed record of the property at Yamhill County.

## 7.2.111 CENTRAL BUSINESS AREA OVERLAY ZONE (CBO)

### 7.2.111.01 Purpose

The purpose of the Central Business Area Overlay Zone is to establish development requirements which are specifically designed to address the unique challenges the City's downtown.

### 7.2.111.02 Central Business Area Defined

For the purposes of this Section, the Central Business Area shall be defined as follows: C and CR zoned land located south of Church Street, east of Fifth Street, north of Alder Street, and west of Second Street. *(Amended ORD 610 effective 4/2/12)*

### 7.2.111.03 Development Requirements

- A. General Requirements: Notwithstanding provisions contained elsewhere in this Code, the following regulations shall apply to the development of new buildings within the Central Business Area.
- B. Permitted Uses. Unless specifically modified by this Section, regulations in this Section do not prohibit or restrict, nor alter the development requirements of, permitted, specially permitted or conditionally permitted uses within the Commercial zone.
- C. Use Restrictions. In addition to the use limitations in Section 7.2.106.06.B., facilities with drive-through and drive-in windows, and wireless communication facilities shall be prohibited. An exception for a drive-through window may be granted by the City Manager if the property or business owner provides a written request for an exception containing written, historical evidence or photographic documentation (which documentation includes a date) that the drive-through window or a drive-in existed and was used as part of a permitted or conditional use prior to October 6, 2011 and evidence that the owner meets the requirements of Section 7.2.414. If the City Manager determines at the time the exception is requested that additional interpretation is needed, the Manager may require that the Planning Commission make a determination regarding the exception under a Type II process. *(Amended ORD 610 effective 4/2/12)*

### 7.2.111.04 Parking

Off-street parking and loading areas shall not be required within the Central Business Area. Off-street parking installed at the option of the owner shall comply with the following:

- A. Parking spaces shall be located behind the primary building. For corner lots, this shall be identified as being opposite, and furthest from, the primary building access.
- B. Improvements, such as driveways and parking space dimensions, shall otherwise comply with Code requirements.

### 7.2.111.05 Landscaping

All new development within the Central Business Area fronting a public or private street shall provide street trees and landscaping in accordance to the following:

- A. Type of Trees. Street trees shall be limited to an approved City of Dayton list. The list of acceptable tree species and planting methods shall be established by the Department of Public Works.
- B. Minimum Size to be Installed. Street trees shall have a minimum caliper of 2 inches when measured 4 feet in height at the time of installation.
- C. Spacing. The spacing of street trees by tree size shall be as follows:
  - 1. Small sized trees (under 25' tall and less than 16' wide) shall be spaced no greater than 20 feet apart.
  - 2. Medium sized trees (25' - 40' tall and more than 16' wide) shall be spaced no greater than 30 feet apart.
  - 3. Large trees (over 40' tall and more than 35' wide) shall be spaced no greater than 40 feet apart.
- D. Placement. The placement of trees is subject to the site design review process. Tree placement shall not interfere with utility poles, light standards, power lines, utility services, visual clearance areas or sidewalk access.
- E. Exemption to Street Tree Requirements. Exemptions to these requirements is subject to the site design review process and may be granted if:
  - 1. The location of the proposed tree would cause potential problems with existing utility lines; or,
  - 2. The tree would cause visual clearance problems; or,
  - 3. There is not adequate space in which to plant the trees; or,
  - 4. Street trees are already in place on the site.
- F. Landscaping, General. Those areas not constructed upon or devoted to parking and access shall be landscaped in accordance to provisions in Section 7.2.306.

7.2.111.06 Building Standards

New buildings shall comply with the following standards:

- A. Setbacks. The maximum building setback from a street-side property line shall be 10 feet. The street-side setback area shall be landscaped. Otherwise, there shall be no minimum nor maximum building setbacks.  
  
If a drive-through window is permitted through the exception process under Section 7.2.111.03(C), the set back from the street-side shall be a minimum of fifteen (15) feet.  
*. (Added ORD 610 effective 4/2/12)*
- B. Building Height. New buildings shall be within 25 percent of the average height of existing buildings located on the same street side. *(Amended ORD 610 effective 4/2/12)*
- C. Orientation. The main entrance to a building shall face a public street.

- D. **Building Facade.** Building facades visible from a public street shall be of brick or wood construction.
- E. **Special Design Requirements.** For property located on the south side of Ferry Street, between Third and Fourth Streets, the following additional design standards shall apply:
  1. **Setbacks.** The maximum building setback from a street-side property line shall be 0 feet. See Section 7.2.111.06, letter A, for a drive-through window. *(Amended ORD 610 effective 4/2/12)*
  2. **Building Height.** New buildings shall be within 10 percent of the average height of existing buildings. *(Amended ORD 610 effective 4/2/12)*
  3. **Building Facade.** The building facade visible from a public street shall be predominantly of brick.
  4. **Building Design.** New buildings shall be similar in character and design with existing structures.

7.2.111.07 **Signs.** *(Revised ORD 620-Effective 11/05/14)*

- A. **Applicability.** All properties within the Central Business Overlay (CBO) shall be subject to the provisions of this section. Unless specifically listed as a permitted use or type in this section, other sign types and uses are prohibited.
- B. **Purpose.** Sign regulations are intended to protect the character while enhancing and contributing to the economic vitality of the commercial core. The City acknowledges the need to effectively communicate and attract the eye to the business for which they are intended to advertise. Signs should be compatible or integrated with the architecture and should not obscure or dominate the building or business. In the review of sign applications within the City, the following criteria and standards shall apply.

The Dayton Sign Code shall not be construed to permit the erection or maintenance of any sign at any place or in any manner unlawful under any other city code provision or other applicable law. In any case where a part of the Dayton Sign Code conflicts with a provision of any zoning, development, building, fire, safety or health ordinance or code, the provision which establishes a stricter standard for the protection of the public health and safety shall prevail.

- C. **Definitions.**

**Abandoned Sign:** A sign that is no longer used by the person who constructed/installed the sign on the property where the sign is located or cessation of use of the property where the sign is located.

**A-Board Sign:** Includes signs that are ordinarily in the shape of an “A”, or some variation thereof, on the ground, easily moveable and which is usually two sided.

**Area Sign:** The area contained within lines drawn between or around the outermost points of a sign, including cutouts, but does not include essential sign structure, foundations or supports. The area of a sign having two display surfaces facing in opposite traffic directions shall be computed by measuring the largest face. For signs having two or more display surfaces, the area is the maximum area of the surfaces that can be seen from any one point.

**Banner Sign:** A sign made of fabric or other non-rigid material with no enclosing framework or not affixed to the primary structure and shall include every type of decoration or banner displayed over or upon the city streets of the City of Dayton on a temporary or seasonal basis, whether attached to utility poles or any other structure.

**Billboard:** A sign height over ten feet from the ground surface, on which same is located, to the top of such billboard, and sign area greater than sixty-four (64) square feet, on which the copy is designed to be periodically changed and which is not located on the premises to which such advertising copy pertains.

**Direct Illumination:** A source of illumination directed towards such signs so that the beam of light falls upon the exterior surface of the sign.

**Facade:** The architectural front of a building; usually the front but sometimes the rear or side, used to meet architectural treatment details and setting the tone for the rest of the building.

**Government Sign:** A sign erected, constructed, or placed within the public right-of-way or on public property by or with the approval of the government agency having authority over, control of, or ownership of the right-of-way or public property.

**Illuminated Sign:** A sign illuminated by an interior or exterior light source, which exterior light source is primarily designed to illuminate such sign.

**Light-Emitting Diode or LED:** A form of illumination using a semiconductor light source that converts applied voltage to light and is used in digital displays.

**Mural:** A hand-painted, hand-tiled or digitally printed image on the exterior wall of a building.

**Neon Light:** A form of illumination using inert gases in glass tubes and includes black light and other neon lights.

**Nonconforming Sign:** A sign that was lawful when it was constructed but does not meet the requirements of this Section.

**Portable Sign:** A sign that is not attached to any building or façade that is easily portable. It may stand alone or be illuminated, have wheels attached, or be located on a trailer.

**Projecting Sign or Blade Sign:** A two-sided sign other than a wall sign which projects beyond the building surface to which it is attached.

**Reader Board:** Any sign not permanently attached to the ground or building and capable of being moved from place to place, including signs attached to vehicles and trailers.

**Sign:** The physical components of materials placed or constructed primarily to convey a message or other display and which can be viewed from a right-of-way, private roadway or lot under other ownership.

**Temporary Sign:** A sign not permanently attached to a building, structure or ground that is intended to be displayed for a limited period of time. Such signs may include banners, pennants, streamers, spinners, or other similar devices.

**Vehicle Sign:** A sign placed in or attached to the motor vehicle, trailer, railroad car, or light rail car that is used for either personal purpose or is regularly used for purposes other than the display of signs.

**Wall Sign:** A sign that is painted or attached on a wall of a building, and extending no more than twelve inches from the wall. Window signs that are permanently attached to the outside of a window are wall signs.

**Window Sign:** Includes text or graphics that are painted on or attached to a window. Window signs do not include business hours of operation or non-illuminated open/closed signs.

D. Permitted Sign Types. The following sign types are allowable in the Central Business Overlay Zone. Unless specifically permitted in this section, other sign types and uses are prohibited.

1. Maximum Allowable Area. The maximum allowable sign area shall be computed as follows: one (1) square foot of sign area for each one linear foot of building façade not exceeding 100 square feet. This maximum area shall apply to all signs attached to the building such that the total area of all signs combined on the property does not exceed 100 square feet.
2. Number. There shall be no limit to the number of signs, provided the total sign area for all signs does not exceed the maximum allowable area for the building.
3. Illumination. Direct or in-direct illumination shall be permitted, provided all illumination is directed away from adjacent property. Neon or LED signage shall be limited to one (1) sign per business, not exceeding three (3) square feet in area, and shall be limited to three (3) colors. Strobe, blinking or flashing lights are prohibited.
4. Wall Signs. Wall signs shall be placed in traditional locations in order to fit within architectural features, such as: above transoms, on cornice fascia boards, or below cornices.
5. Projecting Signs. The edge of a projecting sign furthest from the wall shall not extend more than 42 inches from a wall, the bottom of the sign shall be no lower than eight (8) feet above a right-of-way or private sidewalk area and the top of the sign shall not extend over the roof line of the building. Blade, projecting or hanging signs shall be limited to one (1) per tenant space. Projecting signs shall have a maximum area of eight (8) square feet. Hanging signs may be externally illuminated although ambient light is usually sufficient to light these small signs.
6. Awnings. Text on awnings shall be limited to text placed upon the awning skirt only and shall count as part of the maximum allowable sign area.
7. Temporary Signs.
  - a. Signs shall be subject to the maximum allowable area limitations.
  - b. Signs shall be limited to twelve (12) square feet.

- c. Temporary signs are allowed provided they are erected not longer than sixty (60) days prior to an event and fifteen (15) days after an event. Temporary fabric or paper signs may be placed upon the window opening of a non-residential building when such signs do not obscure more than twenty (20) percent of the window area, and no more than ten (10) percent of the total primary facade area.
  - 8. Flags are limited to a maximum of two (2) per property and shall be no larger than fifteen (15) square feet per flag.
  - 9. Government Signs as defined in this Section.
  - 10. Security Signs. Signs relating to security monitoring which may include company logo are exempt and limited to twelve (12) square inches in size when located on a window or two (2) square feet when free-standing.
  - 11. A-Board Signs. One (1) A-Board sign is permitted per business or property and shall measure no more than three (3) feet wide and not more than four (4) feet high. A-Board signs shall not be calculated in total sign area calculations.
    - a. Placement. A-Board signs may be placed upon private property or within an adjacent public right-of-way along the frontage of the business displaying the sign when a minimum of forty-two (42) inches of clear pedestrian walkway is available immediately adjacent to the sign.
    - b. Removal. A-Board signs shall be movable at all times and displayed only during the open hours of the business.
  - 12. Condition. Signs which are faded, torn, damaged or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed.
- E. Prohibited Signs. Signs not conforming to Section 7.2.111 of the Dayton Municipal Code are unlawful and shall constitute a Class C violation according to the City of Dayton Fee Schedule.
  - 1. Installation or posting of any notice or signage on utility poles, street lights, stop signs, other street signs, trees in the public right-of-way, public places or premises shall be prohibited without approval from the Utility or the City of Dayton.
  - 2. Access. Signs that block ingress or egress so as to interfere with the flow of pedestrian or vehicle traffic, doors, windows, fire escapes or parking areas shall be prohibited.
  - 3. Billboards.
  - 4. Any sign on vacant property unless allowed as a temporary sign.
  - 5. Abandoned signs.
  - 6. Reader board or portable signs.
- F. Exempt Signs. The following signs and devices shall not be subject to the provisions of this Chapter and shall not require approval from the City.

1. Identification Signs. Memorial and Historic Identification Signs and Donation Plates. Memorial tablets, cornerstones, donation plates or similar plaques, such as National Register listing, not exceeding six square feet.
  2. Occupant or Owner Sign. A sign identifying the name of the occupant or owner, provided the sign is not larger than one (1) square foot, is not illuminated and is either attached to the structure or located within the front yard setback.
  3. Window signs shall not be calculated in total sign area calculations but are limited to a maximum of twenty-four (24) square feet or twenty five percent (25%) of the total window area, whichever is less.
  4. State Highway Requirements. Applicants are advised to contact the State Highway Division of the Oregon Department of Transportation regarding other possible sign regulations adjacent to Ferry Street and Third Street.
  5. Vehicle Signs. Signs painted on or otherwise attached to vehicles.
- G. Adjustments and Variances.
1. Sign adjustments/variances shall be reviewed in accordance with a Type I action, as specified in Section 7.3.2 using the criteria listed in 7.2.111.07.G.2.
  2. Criteria for Sign Variance/Adjustments.
    - a. Compliance with the applicable standard would create an unnecessary hardship due to physical conditions of the property (topography, lot size or shape, or other circumstances over which the applicant has no control), which are not present on other properties in the CBO, and the adjustment is necessary to permit signage comparable with other properties in the CBO.
    - b. The hardship does not result from actions of the applicant, owner(s) or previous owner(s), or from personal circumstances of the applicant, owner(s) or previous owner(s), such as physical condition, age or financial situation; and
    - c. Approval of the adjustment will not adversely affect the function or appearance of the development and use of the subject property and surrounding properties; and will not impose limitations on other properties and signage in the area including signage that would be allowed on adjacent properties.

7.2.111.08 Modification of Site Design Standards

The Planning Commission, as part of the site design review process, may allow modification to the site design requirements in the Central Business Area when both of the following criteria are satisfied:

- A. The modification is necessary to provide design flexibility where:
  1. Conditions unique to the site require such modification; or,
  2. Parcel shape or configuration precludes compliance with provisions; or,

3. A modification is necessary to preserve trees, other natural features or visual amenities determined by the Planning Commission to be significant to the aesthetic character of the area.
- B. Modification of the standards in this Section shall only be approved if the Planning Commission finds that the specific design proposed is substantially in compliance with the intent and purpose of the Central Business Area design provisions.

7.2.112 HISTORICAL PROPERTY OVERLAY ZONE (HPO) *(Revised ORD 600, effective 11/4/10)*

7.2.112.01 Purpose

The purpose of this Overlay Zone is to:

- A. Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the city;
- B. Foster civic pride in the accomplishments of the past; and
- C. Carry out the provisions of the Land Conservation and Development Commission, Statewide Planning Goal 5.

7.2.112.02 Conformance Required

No land shall be used, and no building, site, object, district, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a district or on a landmark site except in conformity with this Code.

7.2.112.03 Definitions

The following definitions shall apply to this Section: otherwise:

**Affirmative Maintenance:** Maintaining a building in such a manner as to not create deterioration of the structure and/or dwelling unit. See Deterioration, Prohibited.

**Alteration:** An addition, removal, or reconfiguration which significantly changes the exterior character (including windows and doors) of a historic resource.

**Archaeological Artifact:** An item being at least 75 years old and is the physical record of an indigenous or other cultures or the material remains of past human life or activity.

**Archaeological Site:** A site with 10 or more artifacts or a feature likely to have been generated by patterned cultural activity.

**Archaeological Site of Significance:** An archaeological site that is currently, or potentially eligible to be included on the National Register of Historic Places, or any archaeological site that has been on the National Register of Historic Places, or any archaeological site that has been determined significant by any of Oregon’s nine federally designated Native American Tribes.

**Cultural Resource Survey and Inventory:** The record of information about resources evaluated for listing in the Designated Landmarks Register or National Register of Historic Places within the City of Dayton.

**Demolition:** The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

**Designated Landmarks Register:** The list of historic building or sites and archeological resources identified as “significant” and the record of information about properties officially recognized by the City of Dayton as important in its prehistory and history.

**Deterioration, Prohibited:** Prohibited conditions of deterioration include, but are not limited to moisture infiltration through the exterior roof, walls, openings and foundations; unchecked damage by animals or vandalism, un-maintained or unsafe mechanical, electrical, or plumbing systems, and any conditions on the property that endangers the resource. See Affirmative Maintenance.

**Historic District:** A geographically defined area possessing a significant concentration of buildings, objects, and/or sites which are unified historically by plan or physical development, the boundaries of which have been adopted by the Council under Section 7.2.112.05.

**Historic Preservation Committee (HPC):** A committee established by the City Council under Ordinance No. 592 (October 2009) to work with the Planning Commission and City Council to make recommendations that will ensure that the City continues to preserve, protect, and identify properties with historic value.

**Historic Resource:** A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:

**Building:** A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, garage, school, and etc.

**Structure:** A construction made for functions other than shelter or habitation, e.g. bridge, dam, highway, boat, and etc.

**Object:** A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, and etc.

**Site:** The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e. g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, and etc.

**District:** See Historic District above.

**Landmark Designated:** Any site, object, buildings, or structure officially recognized and designated by the City Council under Section 7.2.112.05.

**Major Public Improvement:** The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a district or on a landmark site, except for the repair or maintenance of existing public improvements.

#### 7.2.112.04 Cultural Resource Survey and Inventory

A. The Planning Commission and/or Historic Preservation Committee shall periodically survey and inventory resources potentially eligible for listing in the Designated Landmarks Register and/or National Register of Historic Places with the City of Dayton.

1. Survey and inventory documents shall be maintained, periodically updated, and open to the public.
2. Survey and inventory documents and processes shall be compatible with the practices of the Oregon State Historic Preservation Office for maintaining the Oregon Inventory of Historic Sites.
3. Records concerning archeological sites shall NOT be made available to the public.
4. Properties included in the Cultural Resource Inventory are not subject to the provisions of 7.2.112.02 (Conformance Required), 7.2.112.06 (Demolition and Moving), 7.2.112.07 (Exterior Alteration and New Construction), or

7.2.112.08 (Notice of Public Hearing) of this Land Use and Development Code unless they are already listed on the National Register.

7.2.112.05 Landmark and District Designation

- A. Process. The process for designating a landmark or historic district may be initiated by the Council, the Commission, or by any interested person who submits an application for designation to the City Manager. At the time of application the City Manager shall provide the property owner and applicant with information regarding the benefits and restriction of designation.
- B. Information. The following information shall be required in an application:
  - 1. The applicant's name and address;
  - 2. The owner's name and address, if different from the applicant;
  - 3. A written description of the boundaries of the proposed district or the location of the proposed landmark;
  - 4. A map illustrating the boundaries of the proposed district or the location of the proposed landmark;
  - 5. A statement explaining the following:
    - a. The reason(s) why the proposed district or landmark should be designated under the Decision Criteria specified in sub-section E.
    - b. The reason(s) why the boundaries of the proposed district are appropriate for designation;
    - c. The potential impact, if any, which designation of the proposed district or landmark would have on the residents or other property owners in the area.
  - 6. Any other information deemed necessary by the City Manager necessary to address approval criteria.
- C. Historic Preservation Committee (HPC) Review: After the application is deemed complete, the Historic Preservation Committee shall review the application at either one of their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.
- D. Council Action. After the application is deemed complete, the City Manager shall schedule the request to be considered at the next available Council meeting. The Council shall conduct a public hearing (Type III) pursuant to Section 7.3.2 (Procedures) of this Code. The Council shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request.
- E. Decision Criteria. The Council shall consider the following criteria to determine if the potential landmark or district is significant enough to grant the designation:

1. The property is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;
2. The property is associated with the lives, persons, or groups of people, significant in local, state, or national history;
3. The property is significant because it embodies the distinctive characteristics of an architectural type, style, period, or method of construction or that represents the work of a master, or that possesses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
4. The property is significant because it yielded or is likely to yield information which is important to local, state, or national history;
5. The property is of significance as a visual landmark;
6. The property is of significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;
7. The resource is listed on the National Register of Historic Places;
8. If testimony or comments are provided, the Council considers the recommendation from the Historic Preservation Committee (HPC).

F. **Removal of Designation.** The process for removing a landmark or historic district designation may be initiated by the Council, the Commission, or by any interested person who submits to the City Manager an application for removal of the designation. The Council may amend or rescind its designation by following procedures required by this Code for designating a landmark, including the adoption of appropriate findings.

G. If the property is listed on the National Registry of Historic Place, the removal shall be completed in cooperation with the State Historic Preservation Office (SHPO) and according to federal statute under CFR Part 60.15.

7.2.112.06 Demolition and Moving

A. **City Manager Approval.** No person shall move, demolish, or cause to be demolished a landmark or a significant resource in an historic district, unless a permit to do so has first been obtained from the City Manager. Application for a permit shall be on a form provided by the City.

B. **Application Process.** Application for alteration of a landmark or new construction in an historic district or on a landmark site shall be filed on a form provided by the City.

The following information shall be required in an application:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. A written description/explanation of the proposed relocation or demolition;
4. A site plan indicating the location of structures on the subject property;

5. Statements indicating the intended re-use of the subject property;
  6. Any other information deemed necessary by the City Manager necessary to address approval criteria.
- C. Historic Preservation Committee (HPC): After the application is deemed complete, the Historic Preservation Committee may review the application at either one of their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.
- D. Review Process. Upon receipt of a completed application, the City Manager shall include the demolition request on the agenda for consideration at the next available Commission meeting. The Commission shall hold a Type II public hearing pursuant to Section 7.3.2 (Procedures) of this Code. The Commission shall consider, if available, comments from the City's Historic Preservation Committee.
- E. Decision Criteria. In order to approve an application for the relocation or demolition of a Designated Landmark, the Commission must find that:
1. No prudent and feasible alternative exists, or
  2. The designated property is deteriorated beyond repair, or
  3. The value to the community of the proposed use of the property outweighs the value of retaining the Designated Landmark
- F. Planning Commission Approval. The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the City Manager shall issue the permit in compliance with all other codes and ordinances of the City.
- A permit shall not be issued unless the applicant provides evidence of legal and recorded ownership of the subject property
- G. Planning Commission Denial. The Commission may disapprove the demolition or removal request if after considering the criteria in this section and based upon not satisfying the criteria, it determines that, in the interest of preserving historical or architectural values, the resource should not be demolished or moved.
- H. Planning Commission Continuance. The Commission may continue the final action on a request for issuance of a demolition or moving permit based on compliance with the State of Oregon 120-day rule for making a final decision on an application.
- I. Appeals. A decision by the Commission to approve, disapprove an application to relocate or demolish an historic resource may be appealed to the Council by any aggrieved party who appeared orally or in writing, in person or through an attorney at the Commission hearing and presented or submitted testimony related to the request under consideration. The appeal shall comply with the requirements in Section 7.3.2. (Procedures).

- J. Alternative Actions. At the time a demolition or moving application is filed the Manager shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.
- K. Additional Requirements. During a period of continuance, the Commission may require the property owner to:
  - 1. List the resource for sale with a real estate agent for a period of time to allow for final decision within 120-days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days and over a period of time that allows for a final decision within 120 days.
  - 2. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for assuring that the sign is posted continuously within the time frame specified in Number 1, above.
  - 3. Prepare and make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.
  - 4. Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.
- L. Press Notification. Prior to issuance of a demolition permit, the City Manager shall issue a press release to local or state newspapers of general circulation in the county. The press release shall include, but not limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.
- M. Permit Conditions. As a condition for approval of a demolition permit, the Commission may:
  - 1. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the county or other party determined appropriate by the Commission.
  - 2. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.
- N. Dangerous Building. This Code shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with an order by the City Council to remove or demolish any landmark determined by the Council to be dangerous to life, health, or property.

7.2.112.07 Exterior Alteration and New Construction

A. Scope. No person shall alter a landmark or any significant resource in an historic district nor shall any new building or structure be constructed in an historic district or on a landmark site unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site or in an historic district unless approved by the Planning Commission.

B. Application Process. Application for alteration of a landmark or new construction is an historic district or on a landmark site shall be filed on a form provided by the City.

The following information shall be required in an application:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. Name of the person(s), title, or relationship to the project who will verify that the alteration or new construction (if approved) has been completed according to the City's requirements;
4. A written description/explanation of the proposed exterior alteration or new construction;
5. A site plan indicating the location or proposed location of structures on the subject property;
6. Photographs, other pictorial/schematics, sample materials/colors (if available) to represent the proposed changes or additions for a new or to a remodeled structure;
7. Written explanation of the intended alteration in comparison with the City's 1993 Advisory Guidelines and the US Secretary of Interior Guidelines. (An on-line copy of the latter document is available for review at the following site: [www.nps.gov/history/hps/tps/standguide/index.htm](http://www.nps.gov/history/hps/tps/standguide/index.htm).)
8. Any other information deemed necessary by the City Manager to address approval criteria

C. Historic Preservation Committee (HPC): After the application is deemed complete, the City Manager requests a review by the Historic Preservation Committee. The review is conducted at their regularly scheduled meetings or by arranging a special meeting. The HPC may provide to the City a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation(s). The Committee serves in an advisory capacity.

D. Approval Requirements. The City Manager may approve the alteration request if determined a minor alteration based upon:

1. No change in the appearance or material of the resource as it exists and/or includes building maintenance; or
2. The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials with the provision that the City Manager may refer the interpretation to the Planning Commission; or

3. The alteration work is on a side or sides of a building not visible from public rights-of-way.
- E. Planning Commission Action. If a request for alteration does not meet the provisions of subsection (D) of this section, the City Manager shall forward the application and the comments from the Historic Preservation Committee to the Planning Commission. The Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Procedures) of this Code, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval which must be adhered to for the approval to remain valid.
- F. Decision Criteria. The Commission shall consider the following standards, comments, and criteria in determining whether to approve an alteration request.
1. Use of the property is historically similar or new use requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
  2. Historic character of a property is retained and preserved. The relocation of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property shall be avoided.
  3. Use of property recognizes physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
  4. Changes acquiring historic significance in their own right are retained and preserved.
  5. Alterations preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the property.
  6. Historic features are repaired versus replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
  7. Use of chemical and physical treatments, if appropriate, are undertaken by the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
  8. Alteration, including new additions, exterior alterations, or related new construction, do not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, and proportions, and massing to protect the integrity of the property and environment
  9. New additions and adjacent or related new construction is undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment are unimpaired.
  10. The Planning Commission considers design guidelines recommended by the Planning Commission or Historic Preservation Committee, such as applicable

sections of the City's 1993 Advisory Guidelines or the U.S. Secretary of Interior's Standards; ([www.nps.gov/history/hps/tps/standguide/index.htm](http://www.nps.gov/history/hps/tps/standguide/index.htm)).

11. The Planning Commission considers comments submitted by the Historic Preservation Committee.

G. Repair and Maintenance Provisions. No provision of this Code shall be construed to prevent the ordinary maintenance or repair of a Designated Landmark such as any exterior architectural feature which does not involve a change in design, material or appearance of such feature. The City Manager determines if the proposed activity is required for the public safety due to an unsafe or dangerous condition.

H. Building Code Leniency. Property owners may request that the City Building Official or his/her designee grant leniency for non-conforming alterations, repairs, additions, and changes of occupancy for existing designated landmark structures in accordance with Section 3403.5 (or its most current replacement/update) of the Uniform Building Code/Oregon Structural Specialty Code. The City Manager and/or his/her designee shall have the final authority to grant such variances. In accordance with the statute, the Building Official or his/her designee may seek guidance from the Oregon State Historic Preservation Office in the application of this provision.

7.2.112.08 Notice and Public Hearing

A. Application Process. The hearing shall be conducted by the Planning Commission as a Type II hearing and subject to the notice, procedural and appeal provisions in Section 7.3.2 (Procedures).

7.2.112.09 Affirmative Maintenance.

Structures and sites designated by the City to be of historic significance shall be maintained. See 7.2.112.03, Definitions—Affirmative Maintenance and Deterioration, Prohibited.

Properties deemed deficient in maintenance are subject to the violation provisions and other applicable ordinances of the City. (See Section 7.1.102.06 of the Development Regulations and the Municipal Code, Section 4.5.)

7.2.112.10 Enforcement of State Preservation Laws

The City of Dayton City Council and Planning Commission shall support the enforcement of all State laws relating to historic preservation. These include but are not limited to ORS 197.772 (Consent for designation for historic property), ORS 358.653 (Conservation Programs, Leases), and ORS 358.475 through 358.541 (Special Assessment).

## 7.2.113 FLOOD PLAIN OVERLAY DISTRICT (FP)

### 7.2.113.01 Purpose

The purpose of the Flood Plain Overlay Zone is to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.
- C. Minimize flood damage to new construction by elevating or flood proofing all structures.
- D. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.
- E. Control filling, grading, dredging and other development which may be subject to or increase flood damage.
- F. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.
- G. Comply with the requirements of the Federal Insurance Administration to qualify the City of Dayton for participation in the National Flood Insurance Program.
- H. Minimize flood insurance premiums paid by the citizens of the City of Dayton by reducing potential hazards due to flood damage.
- I. Implement the flood plain policies in the City of Dayton Comprehensive Plan.
- J. Coordinate and supplement provisions of the State Building Code with local land use and development ordinances. *(Amended ORD 594 2/1/10 & enacted 3/2/10)*

### 7.2.113.02 Definitions

For purposes of this Overlay Zone, the following terms shall mean:

- A. **Accessory Structure:** Sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area.
- B. **Area of Special Flood Hazard:** Land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
- C. **Base Flood Level:** The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100 year flood plain).
- D. **Below-Grade Space:** An enclosed area below the base flood elevation in which the interior grade is not more than two (2) 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, and does not exceed four (4) feet at any point. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*

- E. Critical Facility: A facility for which even a slight change 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. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
- F. Conveyance: Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.
- G. Development: Any activity that has the potential to cause erosion or increase the velocity or depth of flood water. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.
- H. Encroachment: Any obstruction in the flood plain which affects flood flows.
- I. Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision: A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Code.
- J. Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).
- K. FEMA: The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.
- L. Fill: The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.
- M. Flood or Flooding: A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.
- N. Flood Boundary Floodway Map (FBFM): The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).
- O. Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Dayton.
- P. Flood Insurance Study (FIS): 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 and is on file with the City of Dayton.

- Q. Flood Plain: Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Dayton. Also referenced in the State's Model Ordinance and the FEMA documents as the Special Flood Hazard Area (SFHA) as the 100-year flood plain. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
- R. Flood Proofing: A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
- S. Floodway: The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.
- T. Floodway Fringe: The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
- U. Hazardous Material: Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.
- V. Lowest Floor: Means 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 Code.
- W. Manufactured Home: Means 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 connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in sub Q., of this Section. For insurance and flood plain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- X. Manufactured Home Park or Subdivision: Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- Y. Mean Sea Level (MSL): Means, for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
- Z. Mobile Home: A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by sub CC., of this Section.
- AA. New Construction: Any structure(s) for which the start of construction commenced on or after the original effective date of the Flood plain Overlay Zone.

- BB. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.
- CC. Recreational Vehicle: Means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in sub Z., of this Section.
- DD. Special Flood Hazard Area (SFHA): See Flood Plain. *(Amended ORD 594, Effective 3/2/10)*
- EE. Start of Construction: The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

- FF. State Building Code: The combined specialty codes adopted by the State of Oregon. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
- GG. Structure: Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.
- HH. Substantial Improvement: Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:
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 purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:

- a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.
  - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure as determined by the City Manager or Planning Commission using alteration criteria. *(Amended 11/4/10 ORD 600)*
- II. Watercourse: A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified flood plain.

7.2.113.03 General Provisions

The following regulations apply to all lands in identified flood plains as shown graphically on the zoning maps. The flood plain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Yamhill County, Oregon, and Incorporated Areas, with an effective date of March 2, 2010," with accompanying Flood Insurance Rate Maps. The report and maps are incorporated in the overlay zone by this reference and are on file at the City of Dayton. When base flood elevation data has not been provided, the City Manager, or designee, shall have the authority to determine the location of the boundaries of the flood plain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*

- A. Duties of the City Manager, or designee, shall include, but not be limited to:
  - 1. Review all development permits to determine that the permit requirements and conditions of this Code have been satisfied. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
  - 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 Section 7.2.113, are met.
- B. Use of Other Base Flood Data: When base flood elevation data has not been provided on the FIRM, or when more detailed data is available, the City Manager, or designee, shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Section.
- C. Information to be Obtained and Maintained
  - 1. From the developer of the property, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement and below-grade crawl space) of all new or substantially improved structures. (Note: Below-grade crawl spaces are allowed subject to the standards as found in Federal Emergency Management Agency (FEMA) Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.) *(Amended ORD 594 2/1/10, Enacted 3/2/10)*

2. For all new or substantially improved flood-proofed structures:
    - a. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,
    - b. Maintain any flood-proofing certifications required by this Section.
  3. Maintain for public inspection all records pertaining to the provisions of this Code.
- D. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A action. Activities requiring conditional use approval shall be reviewed as a Type II action.

7.2.113.04 Uses - Exempt

Within a Flood Plain Overlay zone no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying zone and the provisions of this overlay zone. Except as provided herein all uses and flood plain development shall be subject to issuance of a determination or a conditional use permit as provided in Sections 7.2.113.06, and 7.2.113.07. The following uses are exempt from the regulations of this overlay zone:

- A. Signs, markers, aids, etc., placed by a public agency to serve the public.
- B. Driveways, parking lots and other open space use areas where no alteration of topography will occur.
- C. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.110.
- D. Customary dredging associated with channel maintenance consistent with applicable State or Federal law.
- E. Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of flood plain development.

7.2.113.05 Uses – Permitted and Subject to Flood Plain Development Permit *(Amended ORD 5942/1/10, enacted 3/2/10)*

If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit such as commercial and industrial uses, including the placement of fill to elevate a structure or site grading to prepare a site for development, may be allowed subject to a written determination (flood plain development permit) that the following requirements are met:

- A. The structure is not located within a floodway. (See 7.2.113.07 L. 6.) *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
- B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
- C. The structures will be located on natural grade or compacted fill.

- D. The lowest floor will be elevated to at least one (1) foot above the level of the base flood elevation and the anchoring requirements in Section 2.108.07 D. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
- E. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Sections 2.110.07.
- F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 2.110.07 D., (3), prior to occupancy.
- G. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the Zoning Manager prior to use of the structure.
- H. No alteration of topography beyond the perimeter of the structure is proposed.
- I. A recreational vehicle may be located in a flood plain only during the non-flood season (June 1 through September 30), provided, it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is 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.

7.2.113.06 *(Removed by ORD 594, Adopted 2/1/10, Effective 3/2/10)*

7.2.113.07 Flood Protection Standards

In all areas of identified flood plain, the following requirements apply:

A. Dwellings and Manufactured Homes

New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this Code shall:

- 1. Have the lowest floor, including basement and below-grade crawl space, elevated on a permanent foundation to a minimum of one (1) foot above base flood elevation; and *(Amended ORD 5942/1/10, enacted 3/2/10)*
- 2. Manufactured homes shall be anchored in accordance with subsection F.; and
- 3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
- 4. 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 either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - a. A minimum of 2 openings having a total net area of not less than one (1) 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. Manufactured Homes in Existing Manufactured Home Parks - Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:
  - 1. Have the finished floor elevated to a minimum of 18 inches above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; or, *(Amended ORD 5942/1/10, enacted 3/2/10)*
  - 2. Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement. *(Amended ORD 5942/1/10, enacted 3/2/10)*

Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.
  
- C. Non-residential Development - New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:
  - 1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
  - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - 3. Be certified by a registered professional engineer or architect that the standards in this subsection and subsection E., are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are flood-proofed.
  - 4. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 7.2.110.07 A., (4).
  - 5. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).
  
- D. Accessory Structures - Sheds or detached garages may be exempt from elevation and flood-proofing standards providing the following development standards are met:
  - 1. The structure cannot be more than 480 square feet in area and shall not be used for human habitation;
  - 2. Shall be designed to have low potential for flood damage;

3. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,
4. Shall be firmly anchored to prevent flotation which may result in damage to other structures.

E. Fill

1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials.
2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

F. 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 shall be anchored to resist floatation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
  - a. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations with manufactured homes more than 50 feet long requiring only one additional tie per side.
  - b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than 50 feet long requiring only four ties per side.
  - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds.
  - d. Any additions or expansions to the manufactured home be similarly anchored.
3. An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater (must be certified).

G. Construction Materials and Methods

1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.

H. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.
2. New and replacement sanitary sewage systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

I. Developments, Generally - Residential developments involving more than one single-family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under A., and C., shall meet the following requirements:

1. Be designed to minimize flood damage.
2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. Have adequate drainage provided to reduce exposure to flood damage.
4. Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods (as approved by the Building Official and/or City Engineer) will be required. *(Amended ORD 594 2/1/10, Effective 3/2/10)*

J. Storage of Materials and Equipment - Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.

K. Alteration of Watercourses (Floodways) - When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:

1. Adjacent communities, the Oregon Division of State Lands and the Department of Land Conservation and Development, and other appropriate state and federal agencies shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration. *(Amended ORD 594 2/1/10, Effective 3/2/10)*
2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

L. Floodways - Located within areas of flood plain established in Section 7.2.110.03 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential the following provisions shall apply in addition to the requirement in I.: (These provisions shall also apply to areas within a flood plain where a floodway

has not been technically determined and the base flood level is three (3) or more feet above the land surface:)

1. Except as provided in number (5) below, prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
2. If Section 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 7.2.110.07.
3. Prohibit the placement of any new manufactured home parks and manufactured homes except in an existing manufactured home park. *(Amended ORD 594 2/1/10, Enacted 3/2/10)*
4. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of flood waters beneath the structure.
5. Projects for stream habitat restoration may be permitted in the floodway provided: *(Added ORD 594 2/1/10, Enacted 3/2/10)*
  - a) The project is certified by a qualified professional (a Registered Professional Engineer, Yamhill County staff, or an applicable State agency); provides a feasibility analysis and certification indicating 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; evidence is presented that no structures will be impacted by a potential rise in flood elevation; and evidence that the local approval process requires an agreement to monitor the project, correct problems, and ensure the flood carrying capacity remains unchanged. *(Added ORD 594 2/1/10, Enacted 3/2/10)*
6. New Installation of Manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling Park and Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions. *(Added ORD 594 2/1/10, Enacted 3/2/10)*
  - a) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or *(Added ORD 594 2/1/10, Enacted 3/2/10)*
  - b) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or general welfare of the public and it meets the following: *(Added ORD 594 2/1/10, Enacted 3/2/10)*
    - i. Demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or property improvements (encroachments) will not result

in any increase in flood levels during occurrence of the base flood discharge; *(Added ORD 594 2/1/10, Enacted 3/2/10)*

- ii. Provide evidence that the replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46cm) about the base flood elevation as identified on the Floor Insurance Rate Map; *(Added ORD 594 2/1/10, Enacted 3/2/10)*
- iii. Provide evidence that the replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by Yamhill County Building Official. Placement shall be as approved; *(Added ORD 594 2/1/10, Enacted 3/2/10)*
- iv. Provide evidence that the replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties; *(Added ORD 594 2/1/10, Enacted 3/2/10)*
- v. Provide evidence that the location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and; *(Added ORD 594 2/1/10, Enacted 3/2/10)*
- vi. Provide evidence of compliance with any requirements deemed necessary by the authority having jurisdiction. *(Added ORD 594 2/1/10, Enacted 3/2/10)*

M. Recreational Vehicles - For recreational vehicles on individual lots see Off-Street Parking and Loading, Section 7.2.303.10 C.3., and for recreational vehicles within recreational vehicle parks see Section 7.2.408.05, Floodplain. *(Added ORD 594 2/1/10, Enacted 3/2/10)*

N. Critical Facilities - Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical Facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the base flood elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. *(Added ORD 594 2/1/10, Enacted 3/2/10)*

#### 7.2.113.08 Generalized Flood Plain Areas

Where elevation data is generalized, such as the unnumbered A zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted

by qualified professionals that demonstrate the site is not in a flood plain. In such cases, a letter of map amendment may be required by the City Manager.

7.2.113.09 Variances

- A. A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 7.2.114.10.
- B. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.
- C. A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the Manager.

7.2.113.10 Variance Criteria

The following criteria shall be used to review variance applications.

- A. Variances shall only be issued upon a showing that:
  - 1. There is a good and sufficient cause;
  - 2. That failure to grant the variance would result in exceptional hardship to the applicant;
  - 3. That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;
  - 4. The variance is the minimum necessary, considering the flood hazard, to afford relief;
  - 5. The variance will be consistent with the intent and purpose of the provision being varied;
  - 6. There has not been a previous land use action approved on the basis that variances would not be allowed; and
  - 7. The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

7.2.113.11 Warning and Disclaimer of Liability

The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural

causes. This zone does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This zone will not create liability on the part of the City of Dayton, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any decision lawfully made thereunder.

## 7.2.114 RESTRICTED DEVELOPMENT OVERLAY DISTRICT (RD)

### 7.2.114.01 Purpose

There are environmentally sensitive areas within the City of Dayton which include unique natural habitat areas, lands valued for their aesthetic qualities and lands which cannot be developed under ordinary standards due to physical limitations. It is the intent and purpose of this zone boundary to maintain and protect the integrity of the natural resources of the City by implementing the goals and policies of the Comprehensive Plan.

### 7.2.114.02 Application

The provisions of this overlay district shall apply to all lands designated as "Open Space Overlay" on the City of Dayton Comprehensive Plan Map and identified within the Restricted Development Boundary (RD).

### 7.2.114.03 Review of Uses

Within the RD Overlay a conditional use permit shall be required for all new uses, use changes, intensification of uses or site alteration for uses otherwise permitted in the underlying zone except for the following activities which are not subject to review:

- A. Reasonable emergency procedures necessary for the safety or protection of property.
- B. Maintenance and repair necessary, and usual, for the continuance of an existing use.
- C. The placing by a public agency of signs, markers, aids, etc. to serve the public.
- D. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical and natural uses of public lands, identified in a public park master plan approved by the City Council. Also see Chapter 7.2.112. *(Revised 11/4/10 ORD 600)*
- E. Public utilities and facilities in conjunction with an approved development or identified as part of a master utility plan approved by the City Council.

### 7.2.114.04 Review Process

- A. Unless otherwise permitted in Section 2.111.03, all development within the RD Overlay District, shall be require approval of a Conditional Use, pursuant to Section 7.3.107. The application may be processed separately or in conjunction with other required land use actions.
- B. In addition to the submittal requirements for a Conditional Use application, the applicant shall supply the following:
  1. Plot plan showing the following:
    - a. Location of the Overlay District Boundary.
    - b. The proximity of the activity to any adjacent streams or drainage corridors.
    - c. The location of any existing vegetative fringe along the stream or drainage and other significant vegetation.

2. Statements addressing the additional review standards and criteria in Section 7.2.114.05.
  3. Any additional information determined by the City Manager to be necessary to demonstrate compliance with this zone. *(Amended ORD 608 effective 10/06/11)*
- C. With the exception of partitionings, subdivisions and planned unit developments, a parcel located within the RD Overlay District is not subject to a conditional use review if the proposed development will be located entirely outside the boundary of the Overlay District.

7.2.114.05 Review Standards and Criteria

In addition to the Conditional Use criteria in Section 7.3.107, a conditional use permit within the RD Overlay District shall indicate how: (a) the proposal will not affect the following factors; (b) the proposal can be mitigated in some manner to minimize or eliminate potential harmful impacts regarding the following factors; or, (3) the factors do not apply to the request. The factors include:

- A. Development shall be directed away from adjacent streams and drainage corridors to the greatest possible extent.
- B. The development, change, or intensification of use shall provide the maximum possible landscaped area, open space, or vegetation between the activity and adjacent streams or drainage corridors.
- C. The fringe along streams and drainage corridors shall be maintained to the maximum extent practical in order to assure scenic quality, protection of wildlife habitat, and protection from erosion. Management of the natural vegetative, including trees or forest cover, shall be subject to the requirements of Section 7.2.114.06.
- D. Areas of annual flooding, flood plains, and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention, overflow and other natural functions. The development shall comply with the flood plain or floodway development requirements of the Dayton Land Use and Development Code.

7.2.114.06 Riparian Vegetation

For both permitted uses and conditionally permitted uses, vegetative removal and within the RD Overlay District shall be subject to the following guidelines:

- A. Where a stream or river is identified, the vegetation shall be preserved by maintaining an area 50 feet adjacent, and parallel to, the high water line. No trees over 6 inches in caliper, as measured 4 feet above the ground, shall be removed from this RD Overlay area.
- B. Where there is no natural stream flow or identified high water mark (e.g. drainage ditch), vegetation shall be preserved by maintaining an area 50 feet parallel to the centerline of the corridor. No trees over 6 inches in caliper, as measured 4 feet above the ground, shall be removed from this RD Overlay area.
- C. Any commercial forestry operations shall be conducted in a manner consistent with the requirements under the Forest Practices Act.

7.2.114.07 Residential Density

RD Overlay areas may be included in the calculation of permitted residential density within a planned unit development when the applicable density is proposed to be transferred to areas outside the Overlay District boundary.

7.2.114.08 Preservation Methods

Where preservation is required as a condition of approval or proposed by the applicant to mitigate development impacts, any one of the following methods shall be employed to guarantee the preservation of the resource:

- A. Dedication to the City for public park or open space if recommended by the planning Commission and accepted by the City Council.
- B. Platting of the affected area within a subdivision or Planned Unit Development as an open space tract to be commonly owned and maintained by a home owners association. Such association shall show evidence of liability insurance, provide public safety coverage for the area and maintain the physical condition of the area as required by this Section.
- C. Creation of conservation easements, or other similar deed restrictions recommended by the Planning Commission, and adopted by the City Council which effectively prohibits construction of structures and other unauthorized uses and activities within the RD Overlay District.