

**TITLE 7: LAND USE AND DEVELOPMENT CODE**  
**SECTION 7.2.4**  
**SUPPLEMENTAL STANDARDS FOR SPECIAL USES**

7.2.401 GENERAL PROVISIONS

- A. Application. Special uses are subject to specific development standards. These standards are non-discretionary so that special review of a proposed development is not required. The standards contained in this Section apply where a special use is identified as a permitted use. If the special use is listed as a conditional use, the standards contained in this Section shall be considered guidelines and may be modified or eliminated. The special use standards do not automatically apply unless the subsection number is referenced following the use title (e.g. Manufactured Home Park, Section 7.2.405).
- B. Development Requirements. Unless specifically modified by the provisions of this Section, special uses are still subject to the development requirements of the underlying zone. Where the special use standard imposes a standard higher, the special use standard shall apply.

7.2.402 ACCESSORY DWELLING UNIT

Where permitted as a special use, an accessory dwelling unit shall meet the following use and development standards: *(Amended Effective 06/06/16, Ordinance 633)*

- A. Location. The accessory dwelling unit shall be located within the side or rear yard and physically separated from the primary residence by a minimum distance of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements.
- B. Design. The accessory dwelling unit must be residential in character with an exterior finish similar to the primary residence. A separate address shall be required for each residence.
- C. Area. The accessory dwelling unit shall contain the lesser of 25% of the floor area of the primary residence or 750 square feet.
- D. Setbacks. The minimum rear yard setback shall be 10 feet; the minimum side yard setback shall 5 feet.
- E. Height. The maximum height shall be 25 feet but in no case shall the height exceed the height of the primary residence.

7.2.403 ATTACHED DWELLING UNITS

Attached dwelling units are single family homes on individual platted lots that are attached to a similar unit on one or two sides. Where permitted as a special use, attached dwelling units shall meet the following use and development standards:

- A. Permitted development. Any number of attached dwellings may be built contiguous with one or both sides of a separate platted lot with one dwelling per lot.
- B. Setbacks

1. Zero side yard units shall comply with the setback requirements for the front yard, rear yard and yard adjacent to a street in the applicable zone.
  2. Interior side yard requirements of the applicable zone shall be met when any part of an exterior wall faces, but is not contiguous to, a side lot line. Otherwise, the interior side yard requirements shall not apply.
- C. Building separation. Buildings on adjacent properties, but not attached to each other, shall be separated by a distance of at least ten feet.
- D. Accessory buildings. The provisions of this section apply to accessory as well as main buildings.

## MANUFACTURED HOMES ON INDIVIDUAL LOTS

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

- A. Construction Date. The manufactured home shall have been manufactured after June 15, 1976, and exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards.
- B. Minimum Area. The manufactured home shall be multi-sectional with a minimum area of 1,000 square feet.
- C. Foundation. The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with either concrete, concrete block, brick, stone, pressure treated wood, or combination thereof. No more than 24 inches of the enclosing material may be exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, or within an identified flood hazard zone, the 24-inch limitation shall not apply.
- D. Roof. The manufactured home roof shall have a nominal pitch of 3 feet for each 12 feet in width.
- E. Exterior Material. The manufactured home shall have an exterior that is residential in appearance.
- F. Garage. The manufactured home shall have a garage with exterior material that is residential in appearance, or, a carport with a concrete parking surface. The garage or carport shall be placed on the property prior to occupancy of the manufactured home.
- G. Energy Efficiency. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code.
- H. Lot Development Standards. The manufactured home shall meet all applicable development standards, such as setbacks and height limitations, in the Development Code.
- I. Transportation Equipment. The tongue, axles, wheels and traveling lights shall be removed from the manufactured home.
- J. A Conditional Use permit shall be required to place a manufactured home on an individual lot or parcel adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan. The application shall be subject to the decision criteria contained in Section 7.3.107 as well as the following factors:  
(Revised ORD 510 – Effective 12/07/98)
  - 1. Location - The dwelling shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.
  - 2. Orientation - If the primary entrance of the adjacent historical building faces a public street, the primary entrance to the manufactured home shall also face the same public street. This provision does not apply if either lot or parcel is a “corner lot” as defined by this Code.

3. Screening - Screening and buffering shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
4. Intent - It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 to 3 above are successfully met. The Conditional Use shall be granted only under those circumstances which are unique to the subject property and will not impair or adversely impact the integrity of the adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.

## 7.2.405 MANUFACTURED HOME PARKS

### 7.2.405.01 General Requirements

- A. Minimum Area. The minimum area for a manufactured home park shall be one acre.
- B. Density. The number of manufactured home spaces shall comply with the density regulations of the underlying zone.

### 7.2.405.02 Design Standards

Manufactured home parks are subject to the minimum standards and conditions set forth in this section.

- A. Type of Manufactured Home Permitted. Only those manufactured homes used as permanent residences, manufactured after June 15, 1976, which exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards shall be permitted.
- B. Garage, Carport, Storage. Each manufactured home shall have a garage or carport with an enclosed storage area. The garage or carport may either be located on the manufactured home space or in an area within the park specifically designed for such use.
- C. Additions to Manufactured Homes. Carports, cabanas, ramadas, and other structures which are attached to a manufactured home shall conform to building code requirements. These additions and structures shall be considered as a part of the manufactured home for determining the lot coverage, setbacks and other requirements.
- D. Manufactured Home Space. The minimum area shall be 3,000 square feet with a minimum space width of 40 feet. Spaces within 15 feet of the boundary of a manufactured home park shall contain a minimum of 4,000 square feet. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or similar markers.
- E. Manufactured Home Space Coverage. No more than 50% of a space shall be occupied by the manufactured home and any accessory structures.
- F. Separations and Setbacks. Building separations and setbacks from the park boundary for mobile homes, accessory structures, and buildings shall be as follows:
  - 1. General park development. Setbacks for structures other than a manufactured homes, carports and related accessory buildings shall comply with the minimum residential setbacks in the underlying zone.
  - 2. Manufactured homes:
    - a. Front: 5 feet minimum to the sidewalk; 8 feet minimum to the curb
    - b. Side and rear: 10 feet minimum to any adjacent manufactured home; 6 feet minimum to any adjacent non-residential structure
    - c. Park Boundary. Manufactured homes on the periphery of a manufactured home park shall maintain the same setbacks as required for the rear yard in the underlying zone.

3. Accessory structures:
    - a. Front: 5 feet minimum to the sidewalk; 8 feet minimum to the curb.
    - b. Side and rear: 6 feet minimum to any adjacent manufactured home, or, adjacent non-residential structure.
    - c. Park Boundary. Accessory structures on the periphery of a manufactured home park shall maintain the same rear yard setbacks for accessory structures in the underlying zone.
  4. Carports:
    - a. Front: 20 feet minimum to the sidewalk.
    - b. Side and rear: Carports attached to, or within 3 feet of, the manufactured home shall comply with the setbacks for the manufactured home. Otherwise, the setback provisions for accessory structures shall apply.
    - c. Connecting Garages. When a double carport or garage is built to serve two adjacent manufactured homes, a minimum 6 foot separation shall be required between the double carport and any adjacent structure, manufactured home, or accessory structure. Alternatively, a 1-hour fire separation may be provided through the center of the double carport.
- G. Parking. Two automobile parking spaces shall be required for each manufactured home space. Parking spaces may be designed end-to-end, side-to-side, or provided in off-street parking areas.
- H. On-site Storage. Outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the park management shall be screened with a 6 foot sight-obscuring fence, wall or hedge.

7.2.405.03 Park Development Requirements

- A. Park Street Standards. Park streets shall be located on park property and shall be maintained by the park owner. The streets shall conform to the following:
1. Width. The park street shall be a minimum of 20 feet in width. If parking is allowed on either side of the street, the minimum width shall be increased by 7 feet for each side of the street on which parking is allowed.
  2. Paving. Park streets shall be paved with Portland cement, concrete, or asphalt concrete and designed and constructed to adequately support traffic loads and provide adequate drainage.
  3. Dead-end Streets. Dead-end park streets over 150 feet in length shall have a cul-de-sac bulb with 35-foot curb radius. No dead-end street shall exceed 500 feet in length.
  4. Curbs. Concrete curbs shall be required. Rolled curbs which comply with ADA requirement shall be acceptable.

5. Connection to Public Street. The interior street system of the park shall have a direct connection to a public street.
- B. Street Names and Addresses. Each park street shall be named and each manufactured home space shall be numbered off the park street.
- C. Driveways. Each manufactured home space shall have direct access to a park street or a public street. The driveway shall be an unobstructed area, not less than 10 feet in width and shall be constructed of concrete and well drained.
- D. Sidewalks and Walkways. Sidewalks and walkways shall connect each manufactured home space to the park buildings, a public street or park street. The sidewalks and walkways shall be concrete, well-drained and not less than 5 feet in width.
- E. Buffering. The perimeter of the park shall be screened. At a minimum, the screening and buffering design shall comply with the standards in Section 7.2.306 and shall be installed prior to completion of the park.
- F. Fire Hydrants. Fire hydrants shall be required within the park on park streets or on a public street in conformance with the design and capacity requirements of the fire district.
- G. Lighting. Park streets and walkways designed for the general use of the park residents shall be lighted during the hours of darkness. Such lighting shall be under control of the park management.
- H. Water and Sewer. All spaces shall be served by a public water and sewer system and comply with City standards.
- I. Storm Drainage. All spaces shall be provided with adequate storm drainage and connected to the public storm drainage system if available. All connections to the public storm drainage system shall be approved by the City. Where a connection is not possible, an on-site storm water detention system may be required.
- J. Garbage Service. Garbage service shall be provided to all residents of the park either in the form of individual curb-side service or the use of waste disposal containers. Where used, waste containers sized and located to accommodate the expected service requirements and screened with sight obscuring fencing on at least three sides.
- K. Recreational Vehicles. Only manufactured homes may be placed upon manufactured home park spaces. The use of a recreational vehicle for permanent or temporary residential use is prohibited.
- L. Building Height, Location, and Lot Coverage. Except as modified by this section, all structures within a manufactured home park shall comply with all provisions of the zone in which the park is located.

## 7.2.406 HOME OCCUPATIONS

Where permitted as a special use, a home occupation shall meet the following use and development standards: *(Revised ORD 614 - Effective 11/06/13)*

- A. Business Registration. The owner/operator of the home occupation must first register their business with the City and pay the associated registration fee.
- B. Operations. The owner/operator of the home occupation shall reside in the home in which the home occupation is conducted. No more than one outside employee shall be permitted per residence.
- C. Compatibility. The home occupation shall be continuously conducted in such a manner as not to create any off premise nuisance, including but not limited to traffic, noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.
- D. Signs. Signs placed within a window shall be limited to 12 square feet. Signs physically attached and not projecting more than 18 inches from the primary structure shall be limited to three (3) square feet. The maximum total sign area permitted per home occupation shall be 12 square feet. Window displays and outdoor signage shall be prohibited. External illumination of signs within a window is permitted but shall be limited to the hours of operation as approved with the corresponding business registration. Internal illumination, fluorescent, neon or LED, rotating, flashing or intermittent signs shall be prohibited. *(Amended ORD 619 – Effective 10/2/14)*
- E. Alterations. Structural alterations are permitted provided the residential character of the building is not altered.
- F. Parking. The number of required on-site parking spaces shall not be reduced; however, no additional parking is required.
- G. Hours of Operation. Visits by suppliers or customers are limited to the hours of 8:00 a.m. and 8:00 p.m.
- H. Outdoor Storage. Outdoor storage or display of materials, equipment, or merchandise shall be prohibited.
- I. Vehicle Repair. The repair, alteration, painting (including body work), cleaning, detailing or rebuilding of vehicles, including automobiles, motorcycles, tractors and similar mechanized equipment, shall be prohibited.
- J. Day Care Provisions. The provisions in this section do not apply to day care or family day care providers.

7.2.407 REMOVED effective 06/06/16 – Ordinance 633



7.2.408 RECREATIONAL VEHICLE PARKS

7.2.408.01 Scope

Where permitted, recreational vehicle (RV) parks shall meet the use and development standards contained within this Section.

7.2.408.02 Definitions

The following definitions shall apply:

- A. Recreational Vehicle: A unit, with or without motive power, which is designed for human occupancy and intended to be used for recreational or temporary living purposes. Recreational vehicle includes:
  - 1. Camping Trailer: A non-motorized vehicle unit mounted on wheels and constructed with sides that can be collapsed when the unit is towed by another vehicle.
  - 2. Motor Home: A vehicular unit built on or permanently attached to a motorized vehicle chassis cab or van which is an integral part of the complete vehicle.
  - 3. Travel Trailer: A vehicular unit without motive power which has a roof, floor, and sides and is mounted on wheels and designed to be towed by a motorized vehicle, but which is not of such size or weight as to require special highway movement permits.
  - 4. Truck Camper: A portable unit which has a roof, floor, and sides and is designed to be loaded onto and unloaded out of the bed of a truck or pick-up truck.
  - 5. Boat, licensed or un-licensed, jet boat, ski-boat, including trailer.
  - 6. All-terrain vehicle (ATV) including snowmobiles.
- B. Recreational Vehicle Park: Any area operated and maintained for the purposes of providing space for overnight use by recreational vehicles.
- C. Recreational Vehicle Space: The area under a parked and occupied recreational vehicle.
- D. Roadway: Interior streets which provide access to the individual RV spaces.

7.2.408.03 Development Requirements

- A. Minimum Size. The minimum size for an RV park shall be one acre.
- B. Permitted uses. RV parks shall be limited to the following:
  - 1. Recreational vehicles, tents and other temporary shelter structures excluding manufactured homes and mobile homes.
  - 2. A single family home for a caretaker/operator.

3. A store for camping supplies and convenience foods designed exclusively for the occupants of the RV park.
  4. Facilities accessory to the RV park such as swimming pools, laundries, recreation buildings and similar uses.
- C. RV Spaces. Each space shall be subject to the following requirements:
1. Boundaries - The boundaries of each space shall be clearly delineated by a fence, hedge, or other similar marker.
  2. Parking - Each space shall include sufficient paved surface to provide two parking spaces. Each space shall be a minimum of 8 feet by 20 feet.
  3. Landscaping - At least 50% of each space shall be landscaped.
  4. Separation. A minimum of 10 feet shall separate the paved portions of each space.
- D. Density. No more than 12 RV spaces per acre shall be permitted.
- E. Setbacks. The following setbacks shall be maintained between the designated RV spaces and the adjacent property boundary. Park roadways may be placed within the required setback area.
1. Adjacent to a public street - 20 feet
  2. Adjacent to a residential zone - 20 feet
  3. Adjacent to a commercial or industrial zone - 10 feet
- F. Access. All parks shall provide access to a public street.
- G. Roadways. Roadways within the park shall be subject to the following:
1. Minimum width (one-way) - 12 feet.
  2. Minimum width (two-way) - 22 feet.
  3. Parking. No parking shall be permitted within the roadway. Parking adjacent to a roadway shall require an additional 7 feet of width for each lane of parallel parking.
- H. Parking. In addition to the parking requirements for each RV space, the following parking requirements shall apply:
1. Two parking spaces shall be located adjacent to the office or building where guests check-in. In addition to these spaces, there shall be sufficient area to park an RV without hindering the traffic movements.
  2. One additional space shall be required for every 10 RV spaces or a portion thereof. The spaces may be located adjacent to facilities, clustered throughout the park or parallel to the roadway.
  3. All spaces shall be clearly marked and striped consistent with the requirements in Section 2.205.

- I. Surfacing. All RV spaces, roadways and parking areas shall be paved according to the requirements in Section 2.205.
- J. Common Use Recreation Area. At least 10% of the site shall be devoted to common use facilities. These may include, but are not limited to, open space, recreational halls, laundry facilities and swimming pools.
- K. Required Facilities. The park shall provide permanent toilets, lavatories and showers for each gender at a ratio of one toilet, lavatory and shower per 15 spaces. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms.
- L. Perimeter Improvements. The perimeter of the recreational vehicle park shall be surrounded by a 6 foot sight-obscuring fence or hedge. The required screening shall not violate clear vision requirements.
- M. Water, Sewer and Surface Drainage. The RV park shall connect to City water and sanitary and comply with Public Works provisions regarding storm drainage. All water, sewer and storm sewer improvements shall comply with City Public Works Standards and plans shall be reviewed and approved by the City Engineer prior to construction. Temporary or portable toilet, shower and lavatory facilities shall be prohibited.
- N. Dump Station. A dump station for discharging wastewater holding tanks shall be provided unless each space is equipped with a sewer connection.
- O. Utilities. All utility services shall be underground. The applicant shall furnish the city with proper easements for reading the meters and for inspecting water and sewer lines.
- P. Lighting. Common driveways and walkways must be adequately lighted. All outdoor lighting shall be directed away from adjacent residential properties and public streets.
- Q. Phasing. Construction of the RV park may be phased. Phasing may be subject to time limits and the number of spaces required for each phase.

7.2.408.04 Operational Requirements

- A. Occupation of RV Spaces. The RV spaces may be occupied by recreational vehicles and tents.
- B. Duration. The maximum duration for occupying an RV space shall be 30 days.
- C. RV storage. Recreational vehicles may be stored within the park. The storage area shall occupy no more than 5% of the total area and shall not be used for the parking or storage of any heavy equipment or trucks.
- D. Use of Facilities. Outdoor recreational facilities shall not be used between 10 p.m. and 8 a.m.

7.2.408.05 Floodplain *(Added ORD 594- Effective 3/2/10)*

- A. All recreational vehicles shall be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or

- B. The chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

7.2.409

#### SERVICE STATIONS

Where permitted as a special use, gasoline service stations shall meet the following use and development standards:

- A. Lot area and dimensions. Minimum lot size 10,000 square feet, minimum of 100 feet of street frontage for an interior lot and minimum of 120 feet of frontage on each street abutting a corner lot.
- B. Yard Exceptions for Service Stations. Free standing gasoline pumps and pump islands, identification signs and lighting standards may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Code.
- C. Gasoline Pumps. Gasoline pumps and pump islands shall not be located so that any part of a vehicle being served will extend into any public right-of-way, alley or private drive used for access or egress. Further, gasoline pumps or pump islands shall not be built within 10 feet of a property line.
- D. Screening. The property shall be screened from every abutting residential zone or use by a sight-obscuring fence, wall, or hedge.
- E. Lighting. Outdoor lighting shall be directed away from residential property.
- F. Use and operation restrictions:
  - 1. No vehicle repairs or disassembling of vehicles other than routine maintenance, replacement of small parts, or changing tires shall be conducted outside a building.
  - 2. No merchandise shall be stored or displayed outside a building except for lubricants, tires and small accessories in retail packaging or display racks.
  - 3. No inoperative vehicles or used vehicle parts shall be stored outside a building for any period longer than 72 hours.
  - 4. No rental recreational vehicles or moving trucks shall be parked or stored except in side or rear yards, and then no closer than 20 feet to any right-of-way.

7.2.410 AUTOMOTIVE SERVICES

Where permitted as a special use, automotive services are subject to the following development requirements:

- A. Outdoor Storage. Outdoor storage of material, parts and equipment shall be prohibited.
- B. Screening. The property shall be screened from every abutting residential zone or use by a 6 foot sight-obscuring fence or wall.
- C. Use and operation restrictions:
  - 1. No vehicle repairs or disassembling of vehicles other than routine maintenance, replacement of small parts, or changing tires shall be conducted outside a building.
  - 2. No merchandise shall be stored or displayed outside a building except for lubricants, tires and small accessories in retail packaging or display racks.
  - 3. No inoperative vehicles shall be stored outside a building for any period longer than 72 hours.

7.2.411 SMALL-SCALE MANUFACTURING *(Added 8/6/07 ORD 583)*

7.2.411.01 Standards

A small-scale manufacturing operation may be permitted in the Commercial (C) Zone as a conditional use provided that:

- A. The area involved in the manufacturing of the product does not involve more than 4,000 square feet of floor area, and all storage of materials is enclosed.
- B. The building and site plan are not incompatible with the character of the commercial area nor will seriously interfere with adjacent land uses.
- C. The use shall not be objectionable in relationship to surrounding residential or commercial uses because of odor, dust, smoke, cinders, fumes, noise, glare, heat or vibration.

7.2.411.02 Process

In addition to the limitations in Section 7.2.411.02 and other applicable provisions of the Development Code, the establishment of a small-scale manufacturing business shall be subject to the following procedures:

- A. Small-scale manufacturing uses shall be reviewed in accordance with the Conditional Use Permit criteria and procedures as specified in Section 7.3.107; and
- B. Small-scale manufacturing uses shall be subject to the criteria and procedures of Site Development Review process as set forth in Section 7.3.106.

7.2.412 WIRELESS COMMUNICATION FACILITIES *(Added ORD 608 - Effective 10/06/11)*

7.2.412.01 Purpose.

The location of Wireless Communication Facilities (WCFs) in the city can and should be accomplished in a manner that minimizes visual impacts, and thereby maintains the natural character of the landscape, by making maximum use of natural vegetative screening; use of colors, textures and other design elements that blend with the site and setting; avoiding locations subject to FAA-required coloring and lighting; encouraging co-location; employing height limitations and setbacks; and avoiding major view corridors.

7.2.412.02 Submittal Requirements

In addition to required application materials and the standard conditional use permit application materials (if a conditional use is required based upon the zone district), any request for a wireless communication facility shall include the following items:

- A. Eight photo simulations of the proposed facility and equipment enclosure as viewed from residential properties and public right-of-ways at varying distances at locations within a 1,000 foot radius of the proposed facility that are agreed upon by planning staff and the applicant prior to filing the application.
- B. Map showing the location and service area of the proposed wireless communication facility and an explanation of the need for the facility.
- C. Map showing the locations and service areas of other wireless communication facilities/sites operated and proposed by the applicant that are close enough to affect service.
- D. Site/landscaping plan; showing the specific placement of the wireless communication facility and the on-ground facility area sufficient to accommodate multiple users; showing the location of existing structures, trees, and other significant site features; showing type and locations of proposed screening; and the proposed color(s) for the wireless communication facility and equipment enclosure.
- E. Signed agreement providing that the applicant shall remove the facility and equipment enclosure within 6 months of the date it ceases to be operational
- F. Lease agreement with the landowner or contract purchaser that allows the landowner or contract purchaser to enter into leases with other providers; and specifies that if the provider fails to remove the facility and equipment enclosure within 6 months of the date it ceases to be operational, the responsibility for removal falls upon the landowner or contract purchaser.
- G. Anticipated capacity of the wireless communication facility (including number and types of antennae which can be accommodated); and the number of additional wireless communication facilities attached that may be co-located on the proposed tower.
- H. Evaluation of the feasibility of co-location of the subject facility as an alternative to the requested permit. The feasibility study must include:
  1. Written verification or other documentation revealing the availability and/or cooperation shown by other providers to gain access to existing sites/facilities to meet the needs of the applicant.

2. Demonstrated by providing evidence of mailing the following co-location request letter to all other wireless providers licensed to provide service within the city: “Pursuant to the requirements of DLCD, Section 7.2.412, (*wireless provider*) is hereby providing you with notice of our intent to make application with the City of Dayton to locate a wireless communication facility that will be located at (*location*). In general, we plan to construct a support structure of (*height*) feet in height for providing (*service type*) service. Please inform us whether you have any wireless facilities located within (*distance*) of the proposed facility that may be available for possible co-location opportunities. Please provide us with this information within 15 business days after the date of this letter. Your cooperation is appreciated.”
  3. Tower type and height of potential co-location facilities.
  4. Specific reasons why co-location is or is not feasible. Reasons may include but are not limited to the following:
    - a. A statement from a qualified radio engineer indicated whether the necessary service can or cannot be provided by co-location at the identified site(s) by the other provider(s).
    - b. Evidence that the lessor of the site(s) identified by the other provider(s) either agrees or disagrees to co-location on their property.
    - c. Evidence that adequate site area exists or does not exist at the site(s) identified by the other provider(s) to accommodate needed equipment and meets all of the site development standards.
- I. A narrative discussion of how the proposed facility and equipment enclosure complies with applicable use and development standards.
1. All lattice, monopole, guyed or other freestanding support structures shall be limited to a total height, including antennae, of 150 feet above natural grade.
  2. Lattice, monopole, guyed or other freestanding support structures, antennae associated enclosures and all exterior mechanical equipment, shall be surfaced to be nonreflective. For the purposes of this requirement, a galvanized metal monopole shall be considered nonreflective.
  3. The wireless communication facility including equipment enclosures shall be fenced by a 6 foot high fence, wall or hedge.
  4. The exterior base of a lattice, monopole, guyed or other freestanding support structure shall be separated from all dwellings and residential accessory structures, not located on the subject property, and residential zones boundaries by a distance equal to one foot greater than the total height of the support structure and antennae. A freestanding support structure may be placed closer to a residential zone boundary where it is demonstrated that location of the proposed facility closer to the boundary will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts.
  5. WCFs, associated enclosures, and all exterior mechanical equipment, shall not be illuminated except as required by the Oregon State Aeronautics Division or the Federal Aviation Administration.

6. WCFs up to 70 feet in height shall have provisions that will allow for co-location of at least one additional user or wireless communication provider. Structures exceeding 70 feet in height shall have provisions that will allow for co-location of at least two additional users or wireless communication providers.
7. A permittee shall cooperate with other wireless communication providers and others in co-locating additional antennae on support structures. A permittee shall exercise good faith in co-locating with other providers and sharing the permitted site, provided such shared use does not result in substantial technical impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or financial burden). Good faith shall include sharing technical information sufficient to evaluate the feasibility of co-location. In the event a dispute arises, as to whether a permittee has exercised good faith in accommodating other users, the city require a third party technical study at the expense of either or both the applicant and permittee.
8. Failure to comply with the co-location requirements of this section may result in the denial of a permit request or revocation of an existing permit.
9. The facility owner or property owner shall remove WCFs within six months of the date it ceases to be operational.

7.2.412.03 Wireless Communication Facilities

A. Esthetics

1. WCFs requiring construction of a support structure must be located on a portion of a site that is effectively isolated from view of residential areas by structures or terrain features unless they are integrated or act as an architectural element of the structure, such as a flag pole.
2. Whip and tubular antennas shall be camouflaged and located to minimize views from residential structures and rights-of-way.
3. Parabolic, ancillary and other antennas shall be completely screened from residential views and public rights-of-way in a manner that is architecturally compatible with the building on which it is located.
4. Equipment enclosures shall be located within the building on which the facility is placed or located underground.

B. Radio Frequency Standards

1. The applicant shall comply with federal standards for radio frequency emissions. Within 6 months after the issuance of its operational report, the applicant shall submit a project implementation report that provides cumulative field measurements of radio frequency emission of all antennas installed at the subject site and compares the results with established federal standards. Said reports shall be subject to review and approval of the city for consistency with federal standards. If on review, the city finds that the WCF does not meet federal standards, the city may revoke or modify this Conditional Use permit.



2. The applicant shall ensure that the WCF will not cause interference with the reception of area television or radio broadcasts. If, on review, the City finds that the WCF interferes with such reception, and such interference is not cured within 60 days, the city may revoke the approval or modify an issued Conditional Use permit.
3. At the time of the application and at all other times, the applicant shall supply information as to the number of channels capable of being employed at the site, their individual and combined potential capacities and all other information requested by the city.

7.2.412.04 Wireless Communication Facilities adjacent historic properties

A. A Conditional Use permit shall be required to place a wireless communication facility on an individual lot or parcel adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan. The application shall be subject to the decision criteria contained in Section 7.3.107 as well as the following factors:

1. Location - The tower and accessory structures shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.
2. Screening - Screening and buffering shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
3. Intent - It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 and 2 above are successfully met. The Conditional Use shall be granted only under those circumstances which are unique to the subject property and will not impair or adversely impact the integrity of the adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.

7.2.413 SMALL WIND ENERGY SYSTEMS *(Added by ORD 608, effective 10/06/11)*

7.2.413.01 Process and Accessory Use

The City of Dayton zone districts allow a small wind energy system as an accessory use. Each district establishes the process and requires compliance with Section 7.2.413.02.

7.2.413.02 General Standards

- A. The minimum distance between the ground and any part of a rotor blade must be at least 20 feet. Additionally, wind turbines must be placed at least 30 feet above any physical wind barrier (e.g. trees or buildings) within a 300 foot radius unless verified in writing by the manufacturer that a lesser height is allowed.
- B. Small wind energy systems may not be illuminated, except as needed to prevent creating a hazard to aircraft, nor may they bear any signs or advertising.
- C. Small wind energy systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the support structure, rotor blades and turbine components.
- D. All wiring serving small wind energy systems must be underground.
- E. Noise produced by small wind energy may not exceed 55dBA measured at the property line.
- F. Small wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization (including but not limited to sheriff, fire, and ambulance) transmissions, or with any microwavable communications link. The owner shall bear the cost of immediately eliminating any such interference should any occur, or must immediately shut down the system or parts of the system causing the interference.
- G. A finish (paint/surface) must be provided for the small wind energy system that reduces the visibility of the facility, including the rotors. In most circumstances this condition may be satisfied by painting the support structure and rotors with flat light haze gray paint. If the support structure is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.
- H. The diameter of the area swept by the rotors may not exceed 25 feet.

7.2.413.03 Free-Standing Systems

- A. Setback. The minimum setback from any property line, overhead utility line, or public right-of-way shall be a distance equal to the vertical distance from the ground to the tip of the wind generator blade when the tip is at its highest point unless the a variance application is approved. In addition to the system's structures, guy wires association with towers shall meet applicable setbacks for the zone district.
- B. Height. Support structures for free-standing systems must be at least 60 feet tall and may not exceed 80 feet in height in any zone.
- C. Security. Support structures for free-standing systems must be unclimbable from the ground to a height of at least 15 feet.

- D. Number. A maximum of one free-standing small wind generator system may be allowed per property.

7.2.413.04 Roof-mounted systems, additional standards

Small wind energy systems may be mounted on the roof of a structure as an appurtenance.

- A. Height. Roof-mounted systems may not be more than 5 feet over the maximum allowed height for the structure.
- B. Number. There is no maximum number of roof-mounted systems permitted.
- C. Engineering Report. Before any roof-mounted system is mounted the property owner must submit a report prepared by an Oregon Licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficient strong to support the system and to withstand the wind, vibratory, and other loads to which would be subjected as a result of mounting the system on it. This report is subject to approval by the City Manager or his/her designee prior to mounting of the system.

7.2.413.05 Small Wind Energy Systems Adjacent Historic Properties

- A. A Conditional Use permit shall be required to place a small wind energy system adjacent to historic properties on an individual lot or parcel adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan. The application shall be subject to the decision criteria contained in Section 7.3.107 as well as the following factors:
  - 1. Location. The system and any accompanying accessory features shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.
  - 2. Screening. Screening and buffering shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
  - 3. Intent. It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 and 2 above are successfully met. The Conditional Use shall be granted only under those circumstances which are unique to the subject property and will not impair or adversely impact the integrity of the adjacent to historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.

7.2.414 DRIVE-THROUGH WINDOWS *(Added ORD 610 effective 4/2/12)*

7.2.414.01 The City encourages comfort and safety for pedestrian activities within its Commercial and Commercial Residential district including the central business area. Drive-through windows are allowed as a special permitted use but with standards to develop and maintain safe and convenient pedestrian access; limit the conflicts created by numerous points of access on one street or near intersections; limit any potential visual and noise conflicts; and separate/buffer the drive-through from residential zone districts.

7.2.414.02 Standards

A drive-through window allowed by Section 7.2.105.03.F (CR zone) or Section 7.2.106.03.F (C zone) shall meet the following standards:

- A. Compliance with the applicable provisions of the Public Works Development Standards (PWDS).
  - 1. Minimum widths for driveway entrances and the driveway/aisle serving the drive-through window.
  - 2. Driveway location and separation from street intersection, other existing driveways and alleys, or between adjacent drive-through accesses. Also see 7.2.411.02.B. (Note: May also require written approval from the Oregon Department of Transportation (ODOT) where a driveway (entrance or exit) serving the drive-through window takes access from a right-of-way under ODOT jurisdiction.)
  - 3. Driveway location based upon street classifications.
  - 4. Requirements for clear-vision areas.
  - 5. Minimum turning radius for driveways.
  - 6. Surfacing for driveway, drive-through aisle, and parking areas.
  - 7. On-site stacking/queuing lane length. (Note: Pedestrians shall not be required to cross the stacking lane to access the business except at designated and marked crosswalks. Installation of Americans with Disability Act (ADA) sidewalk ramps are required on both sides of commercial driveway entrances or stacking lane crossings.)
  - 8. Storm water management.
- B. Minimum separation from street intersection (for streets under the City's jurisdiction). Drive-through driveways entrances and exits shall be provided with a minimum clear separation of 50 feet from the intersection curb, or half the width of the lot, whichever is greater.
- C. Drive-through windows requiring Side Development Review. In addition to compliance with Section 7.2.414 and the PWDS standards, developments (with proposed drive-through windows) that require Site Development Review shall comply with any land use conditions of approval.
- D. Setback from public streets or property lines. Drive-through windows shall be setback a minimum of fifteen (15) feet from public rights-of-way or property lines, except where greater setbacks are required by the Development Code.

A minimum property line setback of fifteen (15) feet is required on any side of a building to accommodate the drive-through vehicle aisle.

- E. Screening. Drive-through window and the access aisle shall be screened from adjacent residentially zoned properties by a 6 foot high sight-obscuring fence or hedge. For properties within the CR zone conducting a permitted commercial use, the applicable CR zone setbacks apply to the drive-through window and the access aisle.
- F. Fire/Life Safety issues. Drive-through stacking/queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way.
- G. Location, noise levels, lighting for "ordering stations." The applicant is required to provide in writing the hours of operation, indicate provisions for limiting noise levels, and demonstrate graphically that lighting does not shine on moving vehicles within public rights-of-way or adjacent properties. The City has the authority to limit the hours of operation to between the hours of 7:00 am and 10:00 pm. Also see Noise Ordinance, Municipal Code 2.8.
- H. Merchandise. No merchandise shall be stored or displayed outside a building except as allowed by 7.2.105.06.A.2.b (CR zone) or 7.2.106.06.B.2.c (C zone).
- I. Transferability. Approval of drive-through windows are granted based upon the original approval for a building permit or Site Development Review, whichever is applicable, and is not transferrable to another business without approval by City Staff under a Type I process. The business or property owner shall provide written evidence that the number of vehicle trips through the drive-through window does not increase in intensity/number over the originally approved business. The written evidence is subject to review by City staff. City staff may refer the request for the transferability to the Planning Commission toward making the determination using the Type I decision process.

#### 7.2.414.03 Process

In addition to the limitations in Section 7.2.414.02 and other applicable provisions of the Development Code, the establishment of a drive-through window shall be subject to the following:

- A. All applicable Development Code standards, such as setbacks and height limitations are applied at the time of building permit unless the structural change is subject to Site Development Review per Section 7.3.106.02. All new construction is subject to approval under the Site Development Review Process, Section 7.3.106.

#### 7.2.414.04 Historic Property. Drive-through windows for properties located within the Historic Property Overlay (HPO) as designated and listed by the City of Dayton are also subject to review under Section 7.2.112.07 (Historic Property Overlay).

#### 7.2.414.05 Adjacent Historic Property. Drive-through windows for properties adjacent to properties located within the Historic Property Overlay as designated and listed by the City of Dayton are also subject to the following:

- A. Location. The drive-through shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.

- B. Screening. Screening and buffering (side and rear yards) shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.

7.2.415 WALK-UP WINDOWS *(Added ORD 610 effective 4/2/12)*

7.2.415.01 Purpose. The City encourages comfort and safety for pedestrian activities within its Commercial and Commercial Residential districts including the central business area. Walk-up windows are allowed as a special permitted use but with standards to develop and maintain safe and convenient pedestrian access, limit any potential visual and noise conflicts, and separate/buffer the walk-up window from residential zone districts.

7.2.415.02 Standards. A walk-up window allowed by Section 7.2.105.03 F (CR zone) or Section 7.2.106.03 F (C zone) shall meet the following standards:

- A. Windows and service ledge shall not encroach into public right-of-way without written permission from the governing body with jurisdiction (i.e. ODOT or the City of Dayton).
- B. Approved encroachments into right-of-way (or walk-up windows on private property that require patrons to stand within the right-of-way) shall provide a minimum unobstructed sidewalk or accessway width of eight (8) feet at the walk-up window (i.e. standing area width of three (3) feet and sidewalk clear width of five (5) feet) and shall meet ADA requirements/standards.
- C. Canopies or covers over walk-up windows shall provide a minimum of eight (8) feet of vertical clearance (measured from finish grade).
- D. The side and rear yard setback requirements of Section 7.2.105.05 and 7.2.106.05 shall apply when the commercial use is adjacent or abutting a residentially zoned property. The walk-up window shall be screened from adjacent property by a 6 foot high sight-obscuring fence or hedge. For commercially used properties within the CR zone district, the setbacks (side and rear yards) in the listed sections apply to the property.
- E. Transferability. Approval of walk-up windows are granted based upon the original approval for a building permit or Site Development Review, whichever is applicable and is not transferrable to another business without the approval of City staff under a Type I process. The business or property owner shall provide written evidence that the number of customer trips using the walk-up window does not increase in intensity/number over the originally approved business. The written evidence is subject to review by the City staff. City staff may refer the request for the transferability to the Planning Commission toward making the determination using the Type I decision process.

7.2.415.03 Historic Property. Walk-up windows for properties located within the Historic Property Overlay (HPO) as designated and listed by the City of Dayton are also subject to review under Section 7.2.112.07.

7.2.415.04 Adjacent Historic Property. Walk-up windows for properties adjacent to properties located within the Historic Property Overlay (HPO) shall be subject to the following:

- A. Location. The walk-up window shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.
- B. Screening. Screening and buffering (side and rear yards) shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.

7.2.416 MARIJUANA- RELATED USES *(Added Effective 06/06/16, Ordinance 633)*

7.2.416.01 Standards. Marijuana Producers, Marijuana Processors, Marijuana Testing Laboratories, Marijuana Wholesalers, and Marijuana Retailers shall comply with the following standards:

- A. Conflicting Uses. No marijuana-related use shall be permitted within 1,000 feet of real property containing any of the following:
  - 1. Public elementary or secondary school for which attendance is compulsory under ORS 339.020; and
  - 2. Private or parochial elementary or secondary school, teaching children as described under ORS 339.030; and
  - 3. Public library; and
  - 4. Public park; and
  - 5. Preschools licensed by the State of Oregon

The distance between conflicting uses shall be measured in a straight line from the closest edge of each property, including any parking lot appurtenant thereto.

- B. If a conflicting use described in (A) is established within 1,000 feet of a legally established marijuana-related use, the marijuana-related use may remain at that location.
- C. Marijuana Retailers shall not operate except between the hours of 10:00 am and 7:00 pm.
- D. Marijuana-related uses shall be located entirely within a permanent building and shall not include drive-through facilities. Outdoor storage of marijuana or marijuana items is prohibited.
- E. Marijuana-related uses shall at all times be registered in good standing with the Oregon Health Authority (OHA) or licensed in good standing with the Oregon Liquor Control Commission (OLCC).
- F. The cultivation of marijuana for personal use, as permitted by State law, is exempt from the provisions of this section.



7.2.417 SHORT-TERM RENTALS *(Added Effective 06/06/16, Ordinance 633)*

7.2.417.01 No person shall occupy, use, operate, nor offer or negotiate to use, lease, or rent a dwelling unit as a short-term unless the requirements of this section have been met.

- A. **Business Registration.** The owner of a short-term rental shall register with the City and pay the associated registration fee as provided in Section 3.3 of the Dayton Municipal Code. The ability to operate a short-term rental in the City of Dayton shall be discontinued for failure to obtain or renew a registration to operate as provided in this section. The registration or lodging tax identification number issued by the City shall be displayed in all marketing materials advertising the short-term rental.
- B. **Additional Submittal Requirements.** The following information shall be submitted along with the business registration on a form approved by the City.
  - 1. The name, address, email address and telephone number of the property owner. An applications may be submitted by an owner and contract purchaser as the applicant and upon written request, the approval will be granted to both the owner and the buyer.
  - 2. A floor plan of the short-term rental identifying the number of bedrooms proposed for use.
  - 3. Acknowledgment by signature that the owner (and contract purchaser) have read all the regulations relating to the operation of a short-term rental under Section 7.2.417 and 7.1.200.03.
- C. **Transient Lodging Tax.** The owner of a short-term rental shall comply with the transient lodging tax provisions of Section 3.8 of the Dayton Municipal Code.
- D. **Occupancy.** The max occupancy for the dwelling unit shall be two persons per bedroom plus two additional persons. For example, a two-bedroom dwelling would have a maximum occupancy of six persons.
- E. **Prohibited use.** No recreational vehicle, travel trailer, tent, or other temporary shelter shall be used in conjunction with the short-term rental.

7.2.417.02 Owner occupied short-term rentals are permitted in the applicable zone, subject to the requirements for the appropriate dwelling type and the requirements in Section 7.2.417. Establishment of a short-term rental under the provisions of this section shall not constitute a land use action.