



MEMORANDUM

To: All Interested Parties
From: Planning & Zoning Department
Date: June 14, 2023
Subject: Draft City of Burns Zoning Ordinance

On July 13, 2022, the City Council for the City of Burns adopted Resolution No. 22-737 to initiate a project to create a new Zoning Ordinance for the City of Burns. To this end and after obtaining feedback and direction that was provided in a series of meetings with a Code Advisory Committee that was comprised of Burns residents, staff has completed the attached draft of the proposed new City of Burns Zoning Ordinance.

The proposed new Zoning Ordinance was based upon the most recent version of the State of Oregon's *Model Development Code for Small Cities*, but its arrangement and content has been modified where deemed appropriate in the hopes of aligning it as best as possible with the characteristics and values of the City of Burns, and to ensure that it meets current legal requirements under state land use statutes, administrative rules, and case law.

As you read through the proposed code text you will encounter sections that are highlighted in green and yellow, with the green highlights being ordinance adoption references that staff will need to update at the appropriate time with a City Council ordinance number and adoption date. The text highlighted yellow are those that staff are seeking to draw special attention to as they would either be completely new regulations to the City of Burns, or they are current zoning standards that staff anticipates will be finalized as part of the hearings process.

For questions or additional information on the proposed code text, please contact Tiffany Leffler at the City of Burns at 541-573-5255 ext. 22 (tleffler@cityofburnsor.gov), and/or Alycia Cash at CSA Planning, Ltd. (alycia@csaplanning.com).

CITY OF BURNS ZONING ORDINANCE

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18.10.000 GENERAL PROVISIONS

18.10.010 Title

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

18.10.015 Purpose

This Code is enacted to promote the public health, safety, and welfare; and to encourage the orderly and efficient development and use of land within the City of Burns, consistent with the City of Burns Comprehensive Plan and the following principles:

1. To promote the public health, safety, and welfare of the citizens of the City of Burns.
2. Full and efficient utilization of urban services (e.g., water, sewer, storm drainage, parks, and transportation facilities).
3. Development of an interconnected street system supporting multiple modes of transportation.
4. To comply with ORS 227 and ORS 197.

18.10.020 Compliance and Scope

1. **Compliance with the Development Code.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or otherwise altered except as permitted by this Code. Furthermore, annexations and amendments to the Zoning Map, and amendments to the Development Code shall conform to applicable provisions of this Code.
2. **Obligation by Successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.
3. **Transfer of Development Standards Prohibited.** Except as otherwise specifically authorized by this Code, no lot area, yard, landscaping, or open space that is used to satisfy a requirement of this Code for one use shall be used to satisfy the same requirement for another use.

18.10.025 Rules of Code Construction

1. **Provisions of this Code Declared to be Minimum Requirements.** The provisions of this Code, in their interpretation and application, are minimum requirements, adopted for the protection of public health, safety, and general welfare.
2. **Highest standard or requirement applies.** Whereas the requirement of this Code varies from another provision of this Code or with other applicable regulations, the highest standard or regulation shall govern. The Planning Official or Planning Commission, as applicable, shall determine which Code provision sets the highest standard. Where the applicability of a Code

provision is unclear, the Planning Official or Planning Commission, or upon referral the City Council, may issue a formal interpretation pursuant to Section 18.10.060, Interpretation.

3. **Tenses.** Words used in the present tense include the future; the singular form includes the plural; and the plural includes the singular.
4. **Mandatory versus Permissive Code Provisions.** The use of the word “shall,” “must,” “required,” or similar directive terms, means the Code provision is a mandatory requirement. The use of the word “should,” “encouraged,” “recommended,” or similar terms, means the provision may be imposed as a requirement but only where the applicable code criteria allow the City decision-making body to exercise such discretion.
5. **Reasonable Interpretations to Resolve Ambiguities.** After attempting to resolve any ambiguities in the Code under subsections 1 – 4 above, the City Council may interpret ambiguities in the Code provided such interpretations are reasonable.
6. **Severability.** The provisions of this Code are severable. If any section, sentence, clause, or phrase is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Code.

18.10.030 Development Code Consistency with Comprehensive Plan and Laws

1. **City of Burns Comprehensive Plan.** This Code implements the City of Burns Comprehensive Plan. Except as otherwise required by applicable state or federal law, all provisions of this Code shall be construed in conformity with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans, adopted pursuant to the Comprehensive Plan.
2. **Compliance with Other Laws Required.** In addition to the requirements of this Code, all uses and development must comply with all other applicable City, State of Oregon, and federal rules and regulations.
3. **References to Other Regulations.** All references to other City, state, and federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of state or federal regulations. Where a proposal, permit, or approval is subject to both City of Burns requirements and state or federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.
4. **Current Versions and Citations.** All references to the regulations of other jurisdictions refer to the most current version and citation for those regulations, except where this Code, City Council policy, or applicable law require otherwise. Where a referenced regulation has been amended or repealed, the Planning Official, Planning Commission or, upon referral, the City Council, shall interpret this Code and, based on adopted City policy, determine whether an equivalent standard applies. Such determinations, unless made through a legislative process, may be appealed to City Council.

18.10.035 Development Code and Zoning Map Implementation

- 1. Zoning of Areas to be Annexed.** Concurrent with annexation of land to the City of Burns, the City Council shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant to Section 18.20.700 Amendments to the Zoning Map or Land Use Regulations or the Comprehensive Plan. The Comprehensive Plan shall guide the designation of zoning for annexed areas.
- 2. Land Use Consistent With Development Code.** Land and structures in the City of Burns may be used or developed only in accordance with this Code, including all amendments thereto. A lawful use of land (“use”) is one that is permitted in accordance with this Code, or is allowed as a legal non-conforming use, pursuant to Section 18.10.055, provided state or federal law does not prohibit the use.
- 3. Development Code and Zoning Map.** The City’s Official Zoning Map (“Zoning Map”), which may be published, amended, and filed separately from this Code, is part of this code. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this code. In addition, this Code may contain zoning regulations for special areas (i.e., overlay zones), and for certain uses or structures that do not appear on the Zoning Map.
- 4. Zoning Map Interpretation.** Except as otherwise specified by this Code, the City’s zoning boundaries are as designated on the Official Zoning Map, which is kept on file at City Hall. The City may adopt and publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map. Examples of regulated features include, but are not limited to, historical landmarks, special street setbacks, base flood (flood Hazard Area) elevation, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property, but its exact location is unknown.
- 5. Zoning Boundary Lines.** Zoning district boundaries are determined pursuant to Section 18.30.125.
- 6. Changes to Official Zoning Map.** Proposed changes to the Official Zoning Map are subject to review and approval under Section 18.20.700 Amendments to the Zoning Map or Land Use Regulations or the Comprehensive Plan.

18.10.040 Coordination of Building Permits

- 1. Land Use Approvals and Building Permits.** Land use and building approvals are processed by two officials: The Harney County Building Official administers building codes and issues building permits; and the Planning Official administers the Development Code (including Flood Hazard Area regulations), processes land use approvals, and coordinates with the Building Official on development and building projects to ensure compliance with the Development Code.

2. **Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the Planning Official has confirmed that all applicable requirements of this Code are met, or appropriate conditions of approval are in place to ensure compliance.
3. **Zoning Checklist.** Where a Zoning Checklist is required prior to issuance of a building permit, pursuant to Section 18.20.015, the Planning Official, through a Type I procedure, shall review the project proposal. The Building Official shall not issue any building permit without an approved Zoning Checklist for the project. If in reviewing the project proposal the Planning Official determines that other permits or approvals are required before development may commence, or a building permit may be issued, the Planning Official shall advise the applicant in writing, accordingly. See Section 18.20 Land Use Regulation Application Procedures and Approval Criteria.

18.10.045 Official Action

1. **Official Action.** The City of Burns Planning Official, Planning Commission, and City Council are vested with authority to issue permits and grant approvals in conformance with this Code, pursuant to Section 18.20 Land Use Regulation Application Procedures and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.
2. **Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void unless the City modifies it in conformance with the Code. The Planning Official shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure Code compliance.
3. **Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the Planning Official may refer any question or permit request to the Planning Commission, who then shall take action on the request pursuant to the applicable provisions of this Code. See also, Section 18.10.060 Similar Use Determinations and Section 18.20 Land Use Regulation Application Procedures and Approval Criteria.
4. **Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to such notice report, or form. See, Section 18.20.010 General Review Procedures.

18.10.050 Lot of Record and Legal Lot Determination

1. **Purpose and Intent.** The purpose of this Section is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). The owner of a lot of record shall not be denied development of one single-family dwelling per lot of record, provided applicable building codes are met. The City shall accept a legal lot determination as sufficient evidence of a hardship for purposes of approving a variance

under Section 18.20.525.

2. **Criteria.** A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 through ORS 92.190:
 - A. The plot of land was lawfully created through a subdivision or partition plat in Harney County prior to annexation to the City of Burns.
 - B. The plot of land was created through a deed or land sales contract recorded with Harney County before the City or County, as applicable, adopted planning, zoning, subdivision or partition regulations.
 - C. The plot of land was created through a deed or land sales contract recorded with Harney County prior to January 1, 2007, and the subject plot of land would have complied with the applicable planning, zoning, subdivision, or partition regulations in effect at the time it was created.
3. **Legal Lot Determination Procedure.** The Planning Official, through a Type II procedure, shall process requests to validate a lot of record, pursuant to ORS 92.010 to 92.190.

18.10.055 Non-Conforming Situations

1. **Purpose and Applicability.** This section provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards (“non-conforming situations”). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The section contains three sections, as follows:
 - A. Non-conforming uses (e.g., industrial use in residential zone) are subject to subsection 18.10.055.2.
 - B. Non-conforming developments (e.g., a structure does not meet setback or height standards) are subject to subsection 18.10.055.3.
 - C. Non-conforming lots (e.g., a lot is smaller than minimum area standards) are subject to subsection 18.10.055.3.
2. **Non-conforming Use.** Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:
 - A. **Expansion of Non-conforming Use Limited.** Expansion of a non-conforming use up to 20 percent of the project site or building is permitted provided it does not create any new or increase any existing physical development non-conformities; expansions up to 20 percent are subject to a noticed Type I Land Use Review, provided however, that the Planning Official may elevate the application to a Type II Site Design Review when

additional information is required to process the request. Expansion of a non-conforming use greater than 20 percent or a request that proposes to change the site use from one non-conforming use to another, shall only be approved with a Type III conditional use permit.

B. Location of Non-conforming Use. A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.

C. Abandonment of Non-conforming Use. A non-conforming use is abandoned when it has been discontinued, for any reason other than fire or other catastrophe beyond the owner's control, for a period of more than 24 months. For purposes of calculating the 24 month period, a use is discontinued when the approving authority concludes that a preponderance of the factual information on the historic use of the property most likely demonstrates the right to a non-conforming use has been abandoned, based upon information such as, but not necessarily limited to:

- (1) The use of land is physically vacated;
- (2) The use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
- (3) Any lease or contract under which the non-conforming use has occupied the land is terminated; or
- (4) A request for final reading of water and power meters is made to the applicable utility districts.

D. Application of Code Criteria and Standards to Non-conforming Use. Once the City deems a use abandoned pursuant to subsection 18.10.055.2.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this Code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings under Section 18.10.065.

E. Extension of Non-Conforming Status for Discontinued Use. Notwithstanding the provisions of subsection 18.10.055.2.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the Planning Commission approves an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the 24 month period of discontinuance.

3. Non-conforming Development. In situations where a development exists on the effective date of adoption or amendment of this Code that could not be built under the terms of the Code today, for example, by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction

or requirement. If the development was lawful when constructed, it may remain on the site so long as it remains otherwise lawful and complies with the following regulations:

- A. Alterations.** A non-conforming development can be enlarged or altered in a way that does not increase its non-conformity, through a Type I review; for example, an addition to an existing building that does not meet a required setback could be approved provided the building line does not further encroach on the non-conforming setback. Proposed alterations or expansions of existing non-conforming development that would increase the development's non-conformity up to 50 percent, can be approved subject to approval of a Type III conditional use permit. Notwithstanding the foregoing, nothing in this section shall be interpreted to allow violation of applicable building code or fire code.
 - B. Destruction.** Should a non-conforming development or non-conforming portion of a development be destroyed by fire or other catastrophe beyond the owner's control, the non-conforming development may be reconstructed within 24 months, in a manner that does not increase the non-conformity as it existed before the event. After 24 months, reconstruction shall only be in full conformity with this Code; the time limitation for reconstruction has no effect on rights to reestablish a non-conforming use after a fire or other catastrophe as allowed under subsection 18.10.055.2.
 - C. Roadway Access.** Notwithstanding subsections A and B above, the owner of a non-conforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the applicable roadway authority.
 - D. Relocation or Removal.** Once a non-conforming structure or a portion of a non-conforming structure or development is moved it shall thereafter conform to current Code standards.
- 4. Non-conforming Lot.** A legal lot or lot of record, as provided by Section 18.10.050, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone, subject to other requirements of the zone.

18.10.060 Violations and Enforcement

Except as provided under subsection 18.10.065.4, any person violating or causing the violation of any of the provisions of this Code who fails to abate said violation has committed a misdemeanor, which, upon conviction thereof, is punishable as prescribed in Oregon Revised Statute (ORS) Section 161. Such person is guilty of a separate violation for each and every day during any portion of which a violation of this Code is committed or continued. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation.

1. Notice of Violation

After receiving a report of an alleged violation from the Planning Official, the City Attorney or other enforcement official duly designated by the City Council, shall, upon determining that probable cause exists, promptly give notice of the alleged violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property; however, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this code. Such a notice shall indicate:

- A. The location and nature of the violation;
- B. The provision or provisions of this Code or conditions of approval, which allegedly have been violated;
- C. Whether immediate enforcement shall be sought or if 15 days will be allowed to correct or remove the violation; and
- D. The date when the notice was personally served or, if the notice was sent by first-class mail, the date three days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this state.

2. **Enforcement.** When the compliance deadline set forth in the notice expires, the City Attorney or other enforcement official duly designated by the City Council shall proceed with any action deemed appropriate, unless:

- A. The City Attorney or other enforcement official duly designated by the City Council finds that the violation has been corrected, removed, or will not be committed; or
- B. A court of competent jurisdiction has halted enforcement pending the outcome of a proceeding concerning the violation.

3. **Penalties.** Code violations may be subject to criminal, civil, or other sanctions authorized under ordinances of the City.

A. **Criminal Penalties** – Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine not to exceed \$500. Each day such violation continues, it shall be considered a separate offense.

B. **Civil Penalties and Remedies** - In addition to, or in lieu of, criminal actions, a violation of this code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.

4. **Other Remedies.** The City, in addition to finding a Code violation is a misdemeanor, may use any of the other remedies available to it, including, but not limited to, the following:

- A. **Stop Work Order.** The City may issue a stop work order.
- B. **Public Nuisance.** The City may find a violation of this Code is a public nuisance and take enforcement action pursuant to City of Burns Ordinance No. [/#].
- C. **Mediation.** The City and property owner may agree to engage in mediation.

18.10.065 Definitions

- 1. **Purpose.** The purpose of this Section is to define terms that are used in the City of Burns Development Code and other terms that may arise in interpreting the Code, particularly those that may be uncommon or have more than one meaning.
- 2. **Applicability.**
 - A. **Definitions.** The definitions in this section apply to all actions and interpretations under the City of Burns Development Code. The meanings of some terms in this section may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.
 - B. **When a Term is Not Defined.** Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, shall be considered a standard reference.
 - C. **Land Use Categories.** This section defines the land use categories used in Section 18.30.
 - D. **Conflicting Definitions.** Where a term listed in this section is defined by another section of this Code or by other regulations or statutes referenced by this Code, the term is not redefined herein for purposes of that other code.
- 3. **Definitions.** The following definitions are organized alphabetically.

A

Abutting. Contiguous or adjoining.

Access. A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property.

Access Control. Where the right of access between a property abutting the highway and the highway has been acquired by a roadway authority, or eliminated by law, pursuant to access or approach spacing standards.

Access Easement. An easement conveyed for the purposes of providing vehicle, bicycle, and/or

pedestrian access from a public street to a lot or parcel across intervening property under separate ownership from the parcel being provided access.

Cross access easement. An easement providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.

Access Management. The systematic control of the location, spacing, design, and operation of driveways, median openings interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists, and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include, but are not limited to, 1) standards such as minimum spacing of driveways and onsite vehicle storage requirements; 2) mitigations related to site conditions such as right-in-right-out only approaches, medians, dedicated turn lanes, and shared driveways; and 3) provision for future opportunities for mitigation by land dedication or easement.

Access Management Plan. A plan adopted by the City, or jointly by the Oregon Transportation Commission (OTC) in coordination with the City, for managing access on a designated section of an arterial street or highway, or within the influence area of a highway interchange.

Alternate Access. The right to access a property by means other than the proposed approach or access connection. It may include an existing public right-of-way, another location on the subject street or highway, an easement across adjoining property, a different street, a service road, a local road, or an alley, and may be in the form of a single or joint approach.

Access, Reasonable. Access that does not require excessive out-of-direction travel or pose a safety hazard.

Access Point. A connection providing for the movement of vehicles between a lot or parcel and a public roadway.

Access Spacing / Intersection Spacing. The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.

Access Way. A walkway providing a through connection for pedestrians between two streets, between two lots, or between a development and a public right-of-way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walkway on public or private property (i.e., with a public access easement); it may also be designed to accommodate emergency vehicles. See also, Walkway.

Accessible. Two meanings are possible depending on the specific code provision. In general, accessible means approachable by pedestrians, vehicles, or other transportation modes, as

applicable. Accessible may also mean approachable and useable by people with disabilities, in conformance with the federal Americans with Disabilities Act. Either or both definitions may apply in a particular situation.

Accessory Structure. A structure of secondary importance or function on a site. In general, the primary use of the site is not carried out in an accessory structure. Examples of accessory structures include, but are not limited to, garages, decks, fences, arbors, gazebos, heat pumps, workshops, and other structures. See also, Primary Structure.

Accessory Use. A use or activity that is a subordinate part of a primary use and that is clearly incidental to a primary use on a site. See also, Primary Use.

Adjacent. Abutting or located directly across a street right-of-way or easement.

Agriculture (Land Use). Small-scale cultivation of agricultural products such as vegetables and fruits, primarily for personal consumption/use. The keeping of livestock is also included in this definition subject to the provisions of Section 18.30.270.

Alter/Alteration. A change in use or occupancy or physical change to a structure or site. Alteration does not include normal maintenance and repair. Alterations may or may not require land use approval, but property owners should check with the City before preparing project plans or commencing development. Alterations include, but are not limited to, the following:

- Changes in use or occupancy;
- Changes to the exterior of a building;
- Changes to the interior of a building;
- Increases or decreases in floor area of a building;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

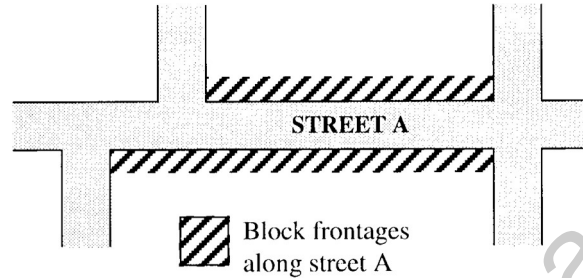
Animal Services (Land Use). The treatment, boarding, training, or grooming of animals, including retail sales of associated products.

Applicant. A person who applies for a permit or approval under this Code. An applicant can be the owner of the property, a contract purchaser, or someone who is legally authorized to represent the owner, such as a builder, developer, or contract purchaser.

B

Block. All property bound by streets, rights-of-way (pedestrian or vehicle ways), water features, or any combination thereof, but is not divided or separated in any way by streets or water features.

Block Frontage. See figure below.



Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Footprint. The outline of a building, as measured around its foundation.

Building/Structure Height. The vertical distance from the average contact ground level at the front wall of the building to the highest top plate.

Building Line. A line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building on the site, typically used in reference to required setback yards.

Building Official. The person who enforces the building ordinances and regulations for the City, and other ordinances and regulations as assigned.

C

Capacity. Maximum holding or service ability, as used for transportation, utilities, parks, and other public facilities. See also, definition of “Occupancy” in applicable building codes.

Carport. A stationary structure consisting of a roof and its supports used to shelter motor vehicles, recreational vehicles, or boats; does not include temporary shelters or canopies not affixed to a permanent foundation per applicable building codes.

Change of Use. Change in the primary type of use on a site.

Child Family Daycare (Land Use). Care for not more than 16 children in a home. See ORS 657A.440(4) for applicable licensing and other requirements.

City. The City of Burns, Oregon.

Clearing (as in clearing and grading). Any activity that removes existing vegetation or strips surface material from any portion of the site and exceeding typical yard maintenance for a single-family dwelling.

Clear and Objective. Decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

Club. Any organization, group, or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests, but shall not include any organization, group, or association, the chief activity of which is to render a service customarily carried on as a business.

Commercial. Land use involving buying/selling of goods or services as the primary activity. See also, Retail Sales and Services.

Commercial Day Care (Land Use). Facilities that provide care and supervision of minor children for periods of less than 24 hours that do not otherwise meet the definition of Family Daycare.

Common Area. Land jointly owned to include open space, landscaping, or recreation facilities (e.g., may be managed by a homeowners' association).

Comprehensive Plan. The current adopted Comprehensive Plan of the City of Burns.

Conditional Use. A use that requires a Conditional Use Permit. See Section 18.20.300.

Condominium. Ownership of a single unit in a multi-unit structure that may contain common areas and facilities; includes both residential and commercial condominiums. See ORS 100 for applicable requirements.

Contracting Services (Land Use). Businesses characterized by the installation of materials or equipment on the property of the purchaser.

Corner lot. See Lot, Corner lot.

Corner Radius. The radius of a street corner, as measured around the curb or edge of pavement, except as otherwise specified by applicable engineering design standards.

Council/City Council. The City Council of Burns, Oregon.

County. Harney County.

D

Days. Calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding federal holidays.

Dedication. The designation of land by its owner for any public use as shown on a subdivision plat or deed.

The term may also be used for dedications to a private homeowners' association.

Develop. To construct or alter a structure or to make a physical change to the land, including excavations, clearing, and fills. See also, Alteration.

Development. All improvements on a site, including alterations to land and new or remodeled structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.

Discontinued Use. A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract. See Section 18.10.055 Non-Conforming Situations.

Discretionary. A permit action or decision that involves substantial judgment or discretion.

Dormitory. A residential building that provides private or semi-private rooms for residents, often along with common restroom facilities and recreation areas. Dormitories are often but not always associated with an educational institution.

Drive-Through/Drive-Up Facility. A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows; automatic teller machines; coffee kiosks and similar vendors; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters. All driveways queuing and waiting areas associated with a drive-through/drive-up facility are similarly regulated as part of such facility.

Driveway. The area that provides vehicular access to a site from a street, or the area that provides vehicular circulation on a site.

Driveway Apron. The edge of a driveway where it meets a public right-of-way. Note: The design standards of the applicable roadway authority apply.

Driveway Approach. A driveway connection to a public street or highway where it meets a public right-of-way. Note: The design standards of the applicable roadway authority apply. See also, Oregon Administrative Rules 734, Division 51, for definitions specific to state highways.

Driveway, Shared. When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) must be created and recorded for this purpose.

Durable & Electronic Goods Repair or Services (Land Use). The repair and maintenance of consumer goods and electronics (e.g., household appliances, vehicles, computers, etc.).

Dwelling. A structure conforming to the definition of a dwelling under applicable building codes and providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. If the individual units are self-contained, assisted living facilities for the elderly or disabled as defined by the State of Oregon, having common food preparation, dining, social, recreational, and/or housekeeping facilities are included in this definition. Typical accessory uses include: accessory storage buildings; private garage and parking areas; storage of not more than one commercial vehicle per dwelling unit; common area buildings for residents, guest houses, and guest quarters not in the main building,

provided such houses and quarters are and remain dependent upon the main building for either kitchen or bathroom facilities, or both, and the guest facilities are used for temporary lodging only and not as a place of residence; and the taking of boarders or leasing of rooms by a resident family, providing the total number of boarders and roomers does not exceed two in any dwelling unit. For the purposes of this Code, the following types of dwelling units are defined:

- **Accessory Dwelling.** A secondary dwelling unit on a lot where the primary use is a single-family dwelling.
- **Attached, Single-Family.** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on adjacent lot(s).
- **Duplex Dwelling.** A structure that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.
- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a person or a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar.
- **Manufactured Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
- **Mobile Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- **Multifamily Development.** A structure or grouping of structures containing three or more dwellings on the same lot.
- **Multifamily Structure.** A structure containing three or more dwelling units. The land underneath the structure is not divided into separate lots.
- **Residential Trailer.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.
- **Recreational Vehicle (RV).** A vehicle, with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes

and is further defined by state law and/or administrative rules.

- **Residential Home.** is a residential treatment or training or adult foster home licensed by or under the authority of the Department of Human Services, under ORS 443.400 to ORS 443.825, a residential facility registered under ORS 443.480 to ORS 443.500, or an adult foster home licensed under ORS 443.705 to ORS 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. (See also, ORS 197.660.).
- **Residential Facility** is defined under ORS 430.010 (for alcohol and drug abuse programs), ORS 443.400 (for persons with disabilities), and ORS 443.880; residential facilities provide housing and care for 6 to 15 individuals who need not be related. Staff persons required to meet state licensing requirements are not counted in the number of facility residents and need not be related to each other or the residents.
- **Single-Family, Detached Dwelling.** A detached dwelling unit located on its own lot.
- **Triplex Dwelling.** A structure that contains three primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

E

Easement. A grant of rights by a property owner that allows others to use the owner's land for a specific purpose, such as access, or to locate utilities.

Eating or Drinking Establishment (Land Use). Those businesses, such as restaurants, inns, bars, taverns, or any similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink.

Emergency Apparatus Lane or Fire Lane. Unobstructed area or driveway meeting Uniform Fire Code requirements, typically not be used for parking or loading area.

Energy Production (Land Use). Commercial-scale energy production uses where the primary purpose of the use is to generate electricity.

Entertainment Establishment (Land Use). The operation of facilities that enable patrons to engage in cultural, entertainment, or recreational interests. Such businesses include, but are not limited to: cinemas and theaters; nightclubs; concert halls; amusement parks; arcades; billiard halls; card rooms; comedy clubs; etc.

F

Final Plat. The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division, pursuant to ORS 92 and Section 18.20.100 of this Code.

Financial Services (Land Use). Institutions providing retail banking and investment services, mortgage lending, and similar services to individuals and businesses. Automatic Teller Machines (ATMs) and drive-throughs (where permitted) are common accessory uses.

Flood Hazard Area/Hazard Area. Area as so indicated by the federal Flood Insurance Rate Map, as amended.

Floor Area. Area of building, which may be described in terms of gross (overall) square feet, or net marketable/leasable space.

G

Garage. A covered permanent structure designed to provide shelter for vehicles, and which is accessory to a dwelling or other primary use. Carports are considered garages.

Goods & Materials Handling (Land Use). Businesses involved in the movement of raw goods and materials from their native site to the point of use in manufacturing, and/or distribution of finished products to end users.

Grade. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building. This is the definition used in the Oregon Structural Specialty Code (the International Building Code as amended by the State of Oregon).

Grading. All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development.

Ground Cover. Living or processed plant material (e. g., mulch, bark chips), river rock, and cinders used for aesthetic purposes and to prevent erosion (i.e., cover bare ground) in designated landscape areas. See Section 18.50.300 Landscaping, Fences and Walls and Exterior Lighting .

Ground Floor. Building floor closest to street level and within four feet of finished grade.

H

Hazardous Substances. Any substance, material, or waste listed below:

- Nuclear or radioactive materials or waste
- Chemicals subject to reporting under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July 1987, U. S. Environmental Protection Agency
- Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101
- Other substances as determined by applicable state or federal agency

Home Occupation (Land Use). A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the residential use on the site, subject to the special use

provisions of Section 18.30.200.

Hospital (Land Use). A licensed institution providing continuous medical and surgical treatment and nursing care for sick or injured people. A Hospital is differentiated from Medical Services as a land use type.

Hotel/Motel (Land Use). A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals for a continuous period not to exceed 29 days. (See ORS 446.310.)

I

Incidental and Subordinate to. Secondary to, and less apparent than, the primary use or other portion of the development.

Intersection. An at-grade connection of a public or private approach road to the highway.

J *[reserved]*

K *[reserved]*

L

Laboratory (Land Use). A facility for testing, analysis, and/or research. Examples of this use include medical or scientific labs, soils and materials testing labs, and forensics labs.

Land Division. The process of dividing land to create parcels or lots. See Section 18.20.100.

Landscaping. Any combination of living plants such as trees, shrubs, plants, vegetative ground cover, or turf grasses, and may include structural features such as walkways, fences, benches, plazas, fountains, or the like. Also includes irrigation systems, mulches, topsoil, and re-vegetation or the preservation, protection, and replacement of trees.

Land Use. The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses.

Land Use Decision. A final decision or determination made by the City of Burns that concerns the adoption, amendment, or application of the Statewide Planning Goals, the Comprehensive Plan, or any land use regulation (i.e., this Code) where the decision requires the interpretation or exercise of policy or legal judgment (ORS 197.015). Note: All decisions requiring Quasi-Judicial review by the City of Burns are Land Use Decisions. Decisions subject to Administrative review are considered Limited Land Use Decisions, pursuant to ORS 197.015.

Legislative. A legislative action or decision is the making of law, as opposed to the application of

existing law to a particular use (e. g., adoption of, or amendment to, a comprehensive plan or development regulation). See also, Section 18.20.720.

Level of Service ("LOS"). A quantitative standard for transportation facilities describing operational conditions. See City of Burns Transportation System Plan.

Loading Area. The area available for the maneuvering and standing of vehicles engaged in delivering and loading goods, freight, or other articles. See also, Section 18.50.400 Parking and Loading.

Lot. A lot is a legally defined piece of land other than a tract that is the result of a land division. The following definitions for "lot" apply to the state definition of both lot (result of subdividing) and parcel (result of partitioning). See figures below.

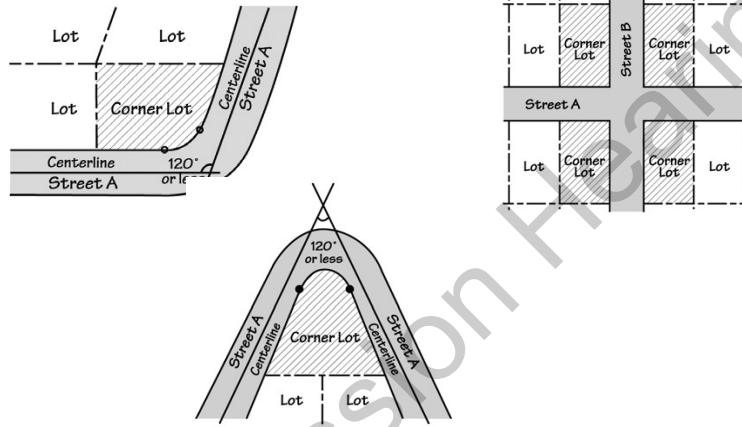
- **Corner Lot.** A lot that has frontage on more than one intersecting street. A street that curves with angles of 120 degrees or less, measured from the center line of the street, is considered two intersecting streets for the purpose of evaluating whether a lot is a corner lot. See figures below.
- **Flag Lot.** A lot with two distinct parts:
 - The flag, which is the only building site and is located behind another lot; and
 - The pole, which connects the flag to the street, provides the only street frontage for the lot, and at any point is less than the minimum lot width for the zone.
- **Through Lot.** A lot that has frontage on two parallel or approximately parallel streets.

Lot Lines / Property Lines. The property lines along the edge of a lot or site. See, figures below.

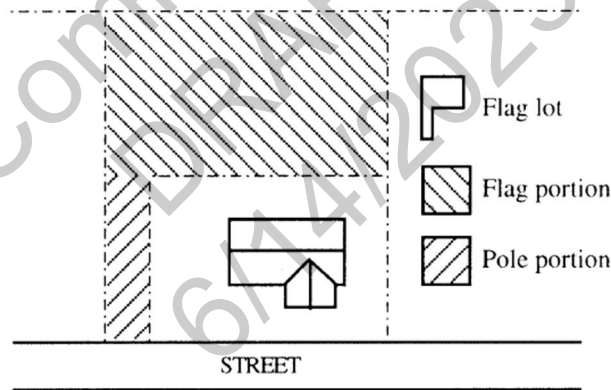
- **Front Lot Line.** A lot line, or segment of a lot line, that abuts a public street or City approved private street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front lot line for the purpose of determining required setbacks. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length. See figures below.
- **Rear Lot Line.** A lot line that is opposite a front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are nearly opposite the front lot line. See figures below.
- **Side Lot Line.** A lot line that connects front and rear lot lines. On a corner lot, the longer lot line that abuts a street is a side lot line. See figures below.
- **Side Street Lot Line.** A lot line that is both a side lot line and a street lot line. See figures below.
- **Street Lot Line.** A lot line, or segment of a lot line, that abuts a street. Street lot line does not

include lot lines that abut a dedicated alley. On a corner lot, there are two (or more) street lot lines. Street lot line can include front lot lines and side lot lines, however, both are considered front yards for the purpose of measuring required setbacks. See figures below.

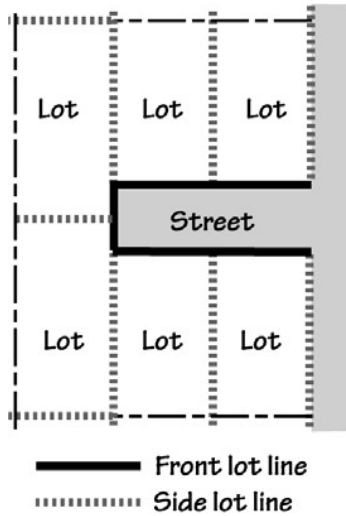
Corner Lots



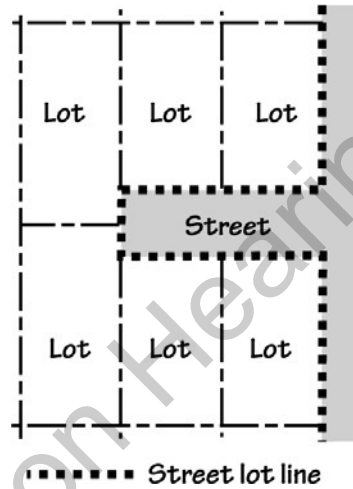
Flag Lot



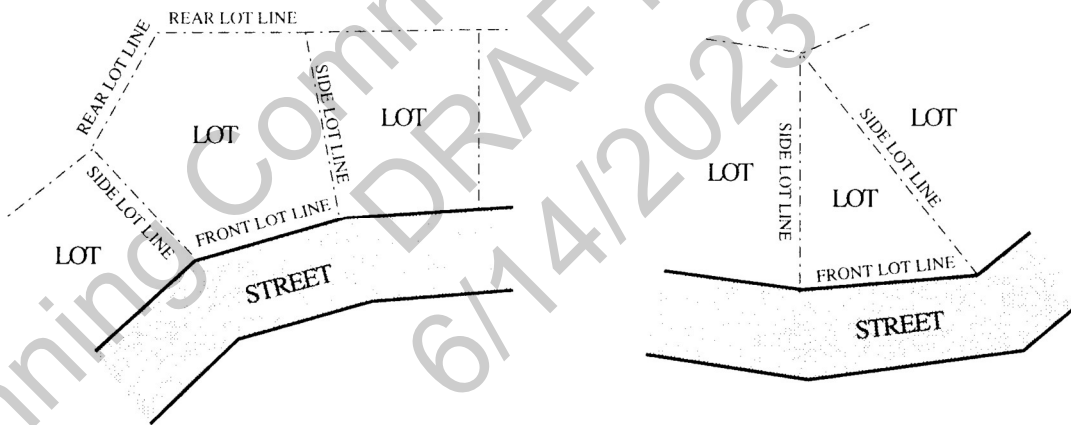
Front and Side Lot Lines



Street Lot Lines



Lot Lines on Irregular Lots



- **Lot of Record.** A legally created lot or parcel meeting all applicable regulations in effect at the time of creation and held in separate ownership, or any other lot deemed a legal lot under Section 18.10.050.

Lot Area. The total surface area (measured horizontally) within the boundary lines of a lot.

Lot Consolidation. A reduction in the number of lots, i.e., the creation of one lot from two or more existing lots.

Lot Coverage. The total area of a lot covered by building(s), as provided by the applicable land use district development standards.

Lot Depth. The distance between the midpoints of the front lot line and the rear lot line.

Lot Frontage. Linear distance of property lines that coincide with a public right-of-way or City approved private street easement.

Lot Line Adjustment. See Property Line Adjustment.

Lot Width. The diameter of the largest circle that can be inscribed within the lot boundaries.

M

Main/Primary Building Entrance. The entrance to a building that most pedestrians are expected to use. Generally, each building has one main entrance; however, some buildings may have more than one primary entrance or may have entrances that open directly into the building's lobby or principal interior ground level circulation space.

Major Remodeling. Projects where the floor area or the developed area of the site increases by 50 percent or more.

Maneuvering Area/Aisle. The driving area in a parking lot where motor vehicles are able to turn around and access parking or loading spaces.

Manufactured and Mobile Homes. See definitions under Dwelling.

Manufactured Dwelling and Mobile Home Park (Land Use). Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space, or keep space for rent or lease, to any person for a charge or fee paid, or to be paid, for the rental or lease or use of facilities, or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by one manufactured dwelling per lot. See also, ORS 446.

Manufacturing (Land Use). The manufacturing, fabrication, packaging, or assembly of goods. Examples include, but are not necessarily limited to: wood products manufacturing; woodworking, including cabinet makers; production of finished chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; production or fabrication of metals or metal products; manufacture or assembly of machinery, equipment, vehicles, appliances; sign making; and production of prefabricated structures, including mobile homes.

Materials Processing (Land Use). The transformation of raw materials into products. Examples include, but are not necessarily limited to: food and related product processing; breweries and distilleries when not accessory to a commercial use; lumber mills, pulp and paper mills; slaughter houses or meat packing; processing of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; concrete batching and asphalt mixing; processing of metals or metal products, including enameling and galvanizing.

Medical Services (Land Use). Services provided by a health care professional, or by any individual working under the supervision of a health care professional, that relate to the diagnosis,

prevention, or treatment of any human disease or impairment. Medical Services are often provided in an office or business park like setting and are differentiated from Hospitals as a land use type.

Mixed-Use. The combination of residential uses with commercial (e.g., office, retail, or services), civic, or light industrial uses on a site.

Multifamily Development and Structure. See definitions under Dwelling.

Municipal Utility Collection, Transmission, and Facilities (Land Use). Systems or facilities used to provide any of the following public services: water, sanitary sewage treatment and disposal, storm drainage, or waste management.

N

Non-conforming Development. An element of a development, such as lot area, setback, height, lot coverage, landscaping, sidewalk, or parking area, or lack thereof, that was created prior to or in conformance with development regulations but which subsequently, due to a change in the zone or applicable Code standards, is no longer in conformance with the current applicable development regulations. See Section 18.10.055.

Non-conforming Situation. A Non-conforming Development or Non-conforming Use. A situation may be non-conforming in more than one aspect. For example, a site may contain a non-conforming use and also have some non-conforming development. See also, Non-conforming Development and Non-conforming Use. See Section 18.10.055.

Non-conforming Use. A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Section 18.10.055.

Nursing Home/Long-Term Care Facility (Land Use). A public or private residential facility that provides a high level of long-term personal or nursing care for persons (such as the aged or chronically ill) who are unable to care for themselves.

O

Office Services, Professional (Land Use). Professional Office Services are characterized by activities conducted in an office setting and generally focusing on business, government, professional, or financial services. For medical services in office settings, please see Medical Services definition.

Off-street Parking. All off-street areas designed, constructed, used, or required, or intended to be used, for the parking of motor vehicles. See Section 18.50.400 for parking standards.

On-street Parking. Parking in the street right-of-way, typically in parking lanes or bays, when allowed by the applicable roadway authority. See Section 18.50.400 for parking standards.

Orientation. To cause to face toward a particular point of reference (e.g., “A building oriented to the street”).

Owner. The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the City a copy of a deed or contract of sale signed by the owner of record.

P

Parcel. A legally defined area of land created through a partition.

Parking Area. A parking area is all the area devoted to the standing, maneuvering, and circulation of motor vehicles. Parking areas do not include driveways or areas devoted exclusively to non-passenger loading or fire apparatus lanes.

Parking Lot Perimeter. The boundary of a parking lot area that usually contains a landscaped buffer area.

Parking Lot, Stand-Alone (Land Use). A facility or enterprise that provides parking services for motor vehicles for a fee.

Parking Space. An improved space designed to provide standing area for a motor vehicle. See Section 18.50.400 for parking space standards.

Parking Versus Storage. Parking is to leave a motor vehicle for a temporary time. Storage is to place or leave in a location for storage, maintenance, repair, future sale or rental, or future use for an indefinite period of time.

Partition. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. See ORS 92.010(8).

Passive Open Space (Land Use). Undeveloped public or private land that is set aside for low intensity outdoor activities such as walking, hiking, bicycling, boating, picnicking, nature education, bird watching, etc.

Pathway. A walkway, bikeway, or access way conforming to City standards and separated from the street right-of-way, that may or may not be within a public right-of-way.

Personal Services (Land Use). The on-site provision of frequent or recurrent services to individuals who may receive services by appointment or as walk-in customers. Such uses include but are not limited to: photocopy/blueprint service; beauty/barber shops; seamstress/tailor shops; massage/day spas; tattoo parlors; etc. The sale of goods related to the services provided is allowed as an accessory use.

Planned Road or Street. A highway, road, street, or alley identified in an adopted corridor plan, comprehensive plan or transportation system plan in accordance with administrative procedures of OAR 660-012 and ORS 197, but that has not been constructed.

Planter Strip. A landscape area for street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk.

Plat. Diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division. This term includes the state law definitions of “partition plat” and “subdivision plat.” See also, Section 18.20.100 Land Divisions and Property Line Adjustments.

Posted Speed. The statutory speed established by ORS 811.105 or ORS 811.180, or the designated speed established by ORS 810.180.

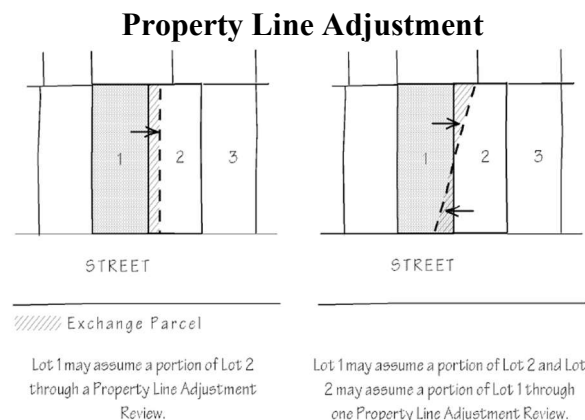
Practicable. Capable of being done after taking into consideration reasonable cost, existing technology, and logistics in light of overall project purposes.

Primary Structure. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, design, appearance, and the orientation of the structures on a site.

Primary Use. An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use.

Project. An existing or proposed use or development subject to one or more land use approvals.

Property Line Adjustment. The relocation of a single common property line between two abutting properties not resulting in an increase in the number of lots, pursuant to Section 18.20.100 Land Divisions and Property Line Adjustments. See figure, below.



Public Access Easement. A public access easement is an easement granted to the public for vehicular and pedestrian access, or for non-motorized access.

Public Improvements. Development of public infrastructure, as required by the City, a special district, or road authority, as applicable. See Section 18.40.

Q

Quasi-judicial. An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development or land use proposal, and requires a public hearing. See Sections 18.20.025 and 18.20.030.

R

Recreational Vehicle Park (Land Use). A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park, however, the City may establish a maximum length of stay. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks.

Recycling Center (Land Use). A facility or building where recyclable materials are collected, stored, and/or processed, by crushing, breaking, sorting and/or packaging, but does not include any uses defined as a wrecking or salvage yard.

Rental Services (Land Use). The leasing (short or long-term) of products/goods other than vehicles or equipment.

Residential Facility (Land Use). A facility that provides residential care, treatment, or training for six or more individuals with intellectual or developmental disabilities, or with mental, emotional or behavioral disturbances, or alcohol or drug dependence in one or more buildings on contiguous properties. See also, ORS 443.400.

Residential Home (Land Use). A facility that provides residential care, treatment, or training for five or fewer individuals with intellectual or developmental disabilities, or with mental, emotional or behavioral disturbances, or alcohol or drug dependence in one or more buildings on contiguous properties. See also, ORS 443.400.

Retail Sales (Land Use). A business that sells new or used products, goods or services.

Retirement or Congregate Living Facility (Land Use). A non-institutional, shared living environment which integrates shelter and service needs of persons who maintain an independent or semi-independent lifestyle and do not require continual supervision or intensive health care services.

Right-Of-Way. Real property or an interest in real property owned by a roadway authority for the purpose of constructing, operating, and maintaining public facilities.

Roadway. The portion of a right-of-way that is improved for motor vehicle and bicycle travel, subject to applicable state motor vehicle licensing requirements. Roadway includes vehicle travel

lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

Road/Roadway Authority. The City or other agency (e. g., Oregon Department of Transportation or Harney County) with jurisdiction over a road or street.

S

Self-Storage (Land Use). Mini-storage or other storage facilities for individual or business uses. The storage areas are designed to allow private access by the tenant for the storage of personal property.

Setback / Setback Yard. The minimum distance required between a specified object, such as a building, and another point, measured from lot lines to a specified object. Typically, a setback refers to the minimum distance (yard dimension) from a building to a specified property line.

Shared Driveway. A driveway used to access two or more parcels.

Shared Parking. Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities. See Section 18.50.400.

Short-Term Rental, Dwelling (Land Use). A furnished dwelling unit occupied by overnight guests for less than 30 days and for which a rental fee is paid.

Sidewalk. A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb or planter strip.

Sight Distance. The unobstructed viewing distance measured from one object or location to another object or location, usually required for the purpose of traffic safety (e.g., a length of street or highway that a driver can see with an acceptable level of clarity, pursuant to the standards of the applicable roadway authority).

Sign. Any outdoor device, or device visible from outdoors, providing identification, advertising, or directional information for a specific business, group of businesses, service, product, brand, person, organization, place or building. included in this definition of signs are: graphic devices such as logos and trademarks; attention-attracting objects such as wind-driven spinners, portable sign devices, logo sculptures, banners, balloons, streamers, strobe lights, flags, inflatable structures, projected picture signs, holographic projection signs, and laser projected designs/images/copy; and other attention attracting media and devices.

Site. For land divisions, property line adjustments, and lot consolidations, the site is the lots, lots of record, parcels, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows:

- If a proposed development includes multiple ownerships, then the site is the combined area of all contiguous ownerships.

- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Site Frontage. The part of a site that abuts a street. See also, Block/Street Frontage.

Solid Waste, Other (Land Use). Uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location; uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Also included are uses that receive, store, sort, and distribute post-consumer recyclable materials; and those that receive hazardous wastes from others and are subject to the regulations of OAR 340-100-110, Hazardous Waste Management.

Spacing Standards. The minimum distance required between a proposed street or driveway connection, as applicable, and the center of the nearest existing street or driveway connection on the same side of the highway in both directions, as set forth by the standards of the applicable roadway authority. Spacing standards for state highways are contained in OAR 734-051-4020.

Street. A right-of-way that is intended for motor vehicle, pedestrian, or bicycle travel; or for motor vehicle, bicycle, or pedestrian access to abutting property. For the purposes of this Code, street does not include alleys and rail rights-of-way that do not also allow for motor vehicle access, or freeways and their ramps.

Street Connectivity. Expressed as the number of street and/or access way connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

Street-Facing / Oriented to Street. A wall plane of a structure that faces or is oriented within 45 degrees or less from a street lot line.

Street Stub. A temporary street ending where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

Structure. Except as provided by applicable building codes, any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, utility vaults, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

Subdivision. To divide land into four or more lots within a single calendar year. See also, Section 18.20.100 Land Divisions and Property Line Adjustments, and ORS 92.010.

Surface Transportation Facilities & Improvements (Land Use). Public or private facilities constructed for the purposes of moving people, goods, or commodities via roads, rail lines, or

pipelines.

T

Through Street. A street that connects to other streets at both ends or is planned to do so in the future, pursuant to a comprehensive plan, transportation system plan, access management plan, or land use approval.

Topographical Constraint. Where existing slopes, landforms (e.g., streams, canals, rock outcropping, etc.) or existing man-made feature (e.g., embankment or berm) make conformance with a Code standard impracticable.

Tract. A piece of land within a platted subdivision reserved for open space, utility corridor, recreation facilities, sensitive lands, or other purpose; may be dedicated to a homeowner's association or other entity for maintenance.

Traffic Impact Analysis. A report prepared by a professional engineer that analyzes existing and future roadway conditions, and which may recommend transportation improvements and mitigation measures.

Transit Facilities (Land Use). Structures or other improvements whose primary function is to facilitate access to and from a transportation system, such as bus and train stations, park and ride lots, transit stops/shelters/kiosks, etc.

Transmission Facilities, Above-Ground (Land Use). Structures and other equipment built or erected to provide for the transmission of power or telecommunications. Examples include but are not limited to: power generation stations and substations, transformers, power poles/towers and lines, telecommunication poles and lines, associated facility access routes, etc.

Transmission Facilities, Underground (Land Use). Power or telecommunications cables and/or equipment that are installed beneath the ground.

Travel Trailer. A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink, or toilets; used for vacation and recreational purposes; and not used as a residence. See ORS 446.003(5), (24), and Recreational Vehicle.

Turnaround. A vehicle maneuvering area at the end of a dead-end street (e.g., hammerhead, cul-de-sac, or other configuration) that allows for vehicles to turn around.

U

Utilities. For the purposes of this Code, there are two types of utilities: 1) Private: telephone, electric, telecommunication, and similar franchise facilities; and 2) Public: water and wastewater conveyance and treatment facilities.

V

Variance. A City Council decision to lessen or otherwise modify the requirements of this Code. See Section 18.20.525.

Vehicle Areas. All of the areas on a site where vehicles may circulate or park, including parking areas, driveways, drive-through lanes, and loading areas. See also, Driveway and Parking Area.

Vehicle or Equipment Rental Services (Land Use). Leasing of passenger vehicles, trucks or other motor vehicles such as motorcycles, boats and recreational vehicles, as well as equipment such as tools, tractors, lifts, etc.

Vehicle Fueling Station (Land Use). Gas stations, unattended card key fuel stations, car washes, commercial vehicle maintenance and/or oil and lubrication services, and similar uses.

Vision Clearance Area. Areas near intersections of roadways and motor vehicle access points where a clear field of vision is required for traffic safety and to maintain adequate sight distance. See Section 18.50.220 Vehicular Access and Circulation.

W

Walkway. A sidewalk or path, including any access way, improved to City standards, or to other roadway authority standards, as applicable. See also, Access Way, Pathway, and Sidewalk.

Warehousing or Logistics (Land Use). The storage or organized movement of goods, except as accessory to a primary permitted use on the subject site.

Waste/Trash Collection Areas. Waste collection areas include areas set aside or designed to be used for garbage collection and collection of materials for recycling. Waste collection areas include areas occupied by dumpsters and other solid waste receptacles.

Wireless Communication Facilities (Land Use). Cellular towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.

Wrecking/Salvage Yard (Land Use). An establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, auto-wrecking yards, salvage yards, scrap yards, auto recycling yards, used auto parts yards and temporary storage of automobile bodies and parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises.

X [reserved]

Y

Yard. The area defined by setbacks (i.e., between the setback line and nearest property line).

Z [reserved]

Planning Commission Hearing
DRAFT
6/14/2023

18.20.000 LAND USE REGULATION APPLICATION PROCEDURES AND APPROVAL CRITERIA

18.20.010 General Review Procedures

This Section sets for the procedures and application types for property uses regulated by the City of Burns Land Development Code.

1. Purpose and Applicability

A. Purpose. The purpose of this Section is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 18.20.010 establishes the review procedure and the decision-making body for particular approvals.

B. Applicability of Review Procedures. All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this section. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are five types of permit/approval procedures as described in subsections 1-5 below. Table 18.20.010 lists the City’s land use and development approvals and corresponding review procedure(s).

(1) Type I Land Use Review Procedure (Staff Review – Ministerial). Type I decisions are made by the City Planning Official, or his or her designee. Type I procedures are typically non-discretionary decisions that do not require public notice or opportunity for a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). In certain instances, uses and permits subject to Type I procedures may have unusual circumstances that require the exercise of discretion. The Planning Official may determine notice and opportunity for hearing is appropriate for any Type I land use review; if the Planning Official determines a Type I land use review requires notice, the notice and opportunity for hearing shall be provided in the manner set forth for a Type II land use review procedure.

(2) Type II Land Use Review Procedure (Staff Review with Notice). Type II land use reviews are made by the City Planning Official, or his or her designee. Property owner notice and an opportunity to request an initial hearing with the Planning Commission within 12 days of the date the written notice of decision was mailed. If the 12 day period lapses and no request for hearing is received by the City of Burns, the staff decision shall be the final land use decision of the City. The City Planning Official may elevate any Type II application to the Planning Commission as a Type III land use review procedure.

(3) Type III Land Use Review Procedure (Quasi-Judicial Review not Involving a Comprehensive Plan Amendment or Annexation). Type III decisions are made by the Planning Commission after a public hearing, with an opportunity to appeal the

Commission's decision to the City Council. Type III Land Use Reviews are quasi-judicial reviews that involve discretion, apply established criteria, and do not amend the comprehensive plan.

(4) Type IV Land Use Review Procedure (Quasi-Judicial Review Involving a Comprehensive Plan Amendment or Annexation). Type IV decisions involve a Quasi-judicial Comprehensive Plan amendment request. The Planning Commission conducts the initial public hearing and makes a recommendation to the City Council. The City Council reviews the Planning Commission recommendation and record and then conducts a de novo public hearing on the request. The City Council makes the final decision. Type IV Land Use Reviews are quasi-judicial reviews that involve discretion and amend the comprehensive plan, but in a limited way that complies with the following:

- (a)** An Applicant has requested the comprehensive plan amendment and an application was submitted on the required forms of the City for quasi-judicial comprehensive plan amendment, the required fee was paid, and sufficient information required by the City was provided by the Applicant to review the request.
- (b)** The Applicant sufficiently demonstrates that the proposed Comprehensive Plan amendment applies to a limited number of people or properties (circumscribed factual situation).
- (c)** The requested comprehensive plan amendment does not propose to change generally applicable land use regulations in the City of Burns and the amendment can be reviewed for compliance with criteria established not later than the initial hearing in front of the City Council.

(5) Type V Land Use Review Procedure (Legislative Review). The Type V procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, plan map amendments or annexations involving numerous properties, and comprehensive plan amendments). Type V reviews are considered by the Planning Commission, which makes a recommendation to City Council. The City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

Table 18.20.010 – Summary of Approvals by Type of Review Procedure

Land Use Request*	Review Procedures	Guidance Comments	Regulation References
Zoning Checklist Review	Type I	Typical Reviews: utility connection permits, street access permits, plot plans for dwellings on existing lots, site development not subject Site Design Review	18.20.015.2
Legal Lot Determination	Type I	Complicated property history may require discretion	18.10.050
Similar Use Determination	Type I	Noticed Type I	18.10.060
Expansion of a Non-conforming Use	Type I or III	Noticed Type I or Type III Conditional Use Permit	18.10.055.2
Property Line Adjustments, including Lot Consolidations	Type I	May involve lot legality as well	18.20.160
Land Use Compatibility (LUCS) Statement	Type I	To be provided on the applicable agency forms	18.20.015.2
Final Plat Review	Type I	Conditions must be met	18.20.145
Adjustment	Type II		18.20.520
Planned Unit Development Detailed Plan Review	Type I or II	Conditions must be met	18.20.650
Partition or Re-plat of 2-3 lots Preliminary Plat	Type II		18.20.120
Similar Use Determinations	Noticed Type I or consolidated with Type II – IV applications		18.10.060
Site Design Review	Type II or III		18.20.200
Variance	Type III	Cannot qualify as adjustment	18.20.525
Expansion or Alteration of a Non-conforming Development up to 50 Percent	Type III	Conditional Use Permit	18.10.055.3
Conditional Use Permit	Type III		18.20.300
Planned Unit Development Concept Plan	Type III		18.20.600
Modification to Approval or Condition of Approval	Type I, II, III or IV		18.20.400
Subdivision or Replat of >3 Lots Preliminary Plat	Type III		18.20.120
Zoning Map Amendment	Type III or V		18.20.710
Annexation	Type IV or V		Oregon Revised Statute 222
Comprehensive Plan Amendment	Type IV or V		18.20.715
Code Text Amendment	Type V		18.20.720

* The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

18.20.015 Type I Land Use Review Procedure

This section sets forth the process and information for Ministerial Staff Reviews such as Zoning Checklist Reviews, Property Line Adjustments and LUCS reviews.

- 1. Type I Procedure (Ministerial Staff Review).** The City Planning Official, or his or her designee makes ministerial decisions through the Type I procedure. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion (i.e., there are clear and objective standards). Land Use Review Procedures identified as Type I procedures in Table 18.20.010 will be taken in as Type I applications. The Planning Official may determine notice and opportunity for hearing is appropriate for any Type I land use review; if the Planning Official determines a Type I land use review requires notice, the notice and opportunity for hearing shall be provided in the manner set forth for a Type II land use review procedure.
- 2. Zoning Checklist.** The City Planning Official reviews general proposals requiring a Type I review using a Zoning Checklist, some specific other reviews require specific information like property line adjustments or LUCS reviews. The Zoning Checklist is intended to ensure a project proposal meets applicable standards of the code. The Zoning Checklist is issued before the City authorizes the Building Official to issue a building permit.

A. Application Requirements.

(1) Application Forms. Approvals requiring Type I review, including Zoning Checklists, shall be made on forms provided by the City.

(2) Application Requirements. When a Zoning Checklist is required, it shall:

- (a)** Include the information requested on the application form;
- (b)** Address the criteria in sufficient detail for review and action; and
- (c)** Be filed with the required fee.

B. Requirements. The City shall not act upon an application for land use approval, and a building permit shall not be issued, until the City Planning Official has approved a Zoning Checklist for the proposed project.

C. Criteria and Decision. The City Planning Official's review of a Zoning Checklist is intended to determine whether minimum code development standards are met and also that any conditions of approval imposed through a Type II-IV review have been satisfied prior to issuance of a building permit.

D. Effective Date. A Zoning Checklist decision is final on the date it is signed by the City Planning Official. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the state Land Use Board of Appeals.

18.20.020 Type II Procedure (Staff Review With Notice)

The City Planning Official, or his or her designee, performs Staff Reviews through the Type II procedure. Type II decisions are made by the City Planning Official with public notice and an opportunity to request a hearing in front of the Planning Commission. Alternatively, the City Planning Official may refer any Type II application to the Planning Commission for its review under the Type III procedures.

1. Application Requirements.

A. Application Forms. Applications for projects requiring Type II Staff Review shall be made on forms provided by the City Planning Official.

2. Submittal Information. The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all the following information:

A. The information requested on the application form;

B. Plans and exhibits required for the specific approval(s) being sought;

C. A written statement or letter explaining how the application satisfies each and all the relevant criteria and standards in sufficient detail;

D. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and

E. The required fee.

3. Procedure.

A. The City Planning Official shall review the submitted application and determine if the Application is complete within 30 days of receiving the Application. The completeness review shall be conducted in accordance with procedures set forth in ORS 227.178. Staff will determine within the 30 day completeness review period of the matter should be elevated and processed as a Type III procedure.

B. The City Planning Official shall review the Application and submittal and issue a staff

decision leaving time for a request for hearing in front of the Planning. Notice of the Staff decision shall be provided to property owners within 100 feet of the subject property. The Notice of Decision shall contain all of the following information:

- (1) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal, identifies the applicable criteria and describes conditions of approval;
 - (2) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
 - (3) A statement of where the City's decision can be obtained;
 - (4) The date the decision shall become final, unless a request for hearing submitted.
 - (5) A statement that all persons entitled to notice may request a Planning Commission hearing.
- 4. Effective Date of Decision.** Unless the conditions of approval specify otherwise, an Administrative Decision becomes effective 12 days after the City mails the decision notice, unless a hearing is requested.
- 5. Request for Hearing of Type II Decision.** A request for hearing may be submitted for a Type II Staff Decision made by the City Planning Official, as applicable, pursuant to the following:
- A. Who may request a hearing.** The following people have legal standing to request a hearing of a Type II Staff Decision:
 - (1) The applicant or owner of the subject property;
 - (2) Any person who was entitled to written notice of the Type II decision; and
 - (3) Any other person who believes they are affected or aggrieved by the decision.
 - B. Hearing request procedure.**
 - (1) **Request for Hearing.** Any person with standing, as provided in subsection 1, above, may request a hearing for a Type II Staff Decision by filing a Request for Hearing according to the following procedures.
 - (2) **Time for filing.** Request for hearing shall be filed with the City Planning Official within 12 days of the date the Notice of Decision is mailed.
 - (3) **Content of request for hearing.** The request for hearing shall be accompanied by the required filing fee and shall contain:

- (a) An identification of the decision for which a hearing is requested, including the date of the decision;
 - (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal.
- 6. Scope of Hearing.** The request for hearing for a Type II Administrative Decision shall be a hearing de novo before the Planning Commission. The hearing shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Staff Decision but may include other relevant evidence and arguments. The Planning Commission may allow additional evidence, testimony, or argument concerning any relevant standard, criterion, condition, or issue.
- 7. Planning Commission Hearing Procedure.** Hearings on appeals of Type II Staff Decisions shall follow the same procedure used for public hearings on Type III reviews under Section 18.20.025. The Planning Commission is the final decision-making authority for Type II Staff Decisions for which a request for Planning Commission hearing properly filed.
- 8. Type II Staff Decision Alternative Procedures.** At the time of Application submittal, any Applicant can request the application be processed as a limited land use decision, pursuant to ORS 197.195 or as an expedited land division pursuant to ORS 197.360. Such requests shall be made in writing with the Application submittal materials. Staff will promptly provide a determination to the Applicant confirming the City's ability to review the Application using the alternative procedure requested.

18.20.025 Type III Land Use Review Procedure (Quasi-Judicial Review without a Comprehensive Plan amendment or annexation)

Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

1. Application Requirements.

- A. Application Forms.** Applications requiring Type III Quasi-Judicial review shall be made on forms provided by the City Planning Official.
- B. Submittal Information.** The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all the following information:
 - (1) The information requested on the application form;
 - (2) Plans and exhibits required for the specific approval(s) being sought;
 - (3) A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;

- (4) Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable;
- (5) The required fee.

2. Pre-Hearing Procedure.

A. Completeness Review: The City Planning Official shall review the submitted application and determine if the Application is complete within 30 days of receiving the Application. The completeness review shall be conducted in accordance with procedures set forth in ORS 227.178.

B. Mailed and Posted Notice.

- (1) The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - (a) All owners of record of real property located within a minimum of 100 feet of the subject site;
 - (b) Any person who submits a written request to receive a notice; and
 - (c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Planning Official shall notify the road authority if different than the City of Burns. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
- (2) At least 14 days before the first hearing, the Applicant or applicant's representative shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Planning Official. The applicant shall submit an affidavit of notice using a form provided by the City, which shall be made a part of the file. The affidavit shall state the date that the notice was posted.
- (3) At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.

C. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 2 above shall contain all the following information:

- (1) A summary of the proposal and the relevant approval criteria, in sufficient detail to help

the public identify and locate applicable code requirements;

- (2) The date, time, and location of the scheduled hearing;
- (3) The street address or other clear reference to the location of the proposed use or development;
- (4) A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- (5) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;
- (6) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- (7) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- (8) A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

D. Type III Decision Alternative Procedures. At the time of Application submittal, any Applicant can request the Type III application be processed as a limited land use decision, pursuant to ORS 197.195 or as an expedited land division pursuant to ORS 197.360. Such requests shall be made in writing with the Application submittal materials. Staff will promptly provide a determination to the Applicant confirming the City's ability to review the Application using the alternative procedure requested.

3. Conduct of the Public Hearing.

- A. At the commencement of the hearing, the Planning Commission chair, or his or her designee, shall state to those in attendance all the following information and instructions:
 - (1) The applicable approval criteria by Code section that apply to the application;
 - (2) Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

- (3) Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
- (4) Failure to raise constitutional or other issues with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude pursuit of action in court on that issue;
- (5) At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See, subsection 18.20.025.5.
- (6) Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 10 of this subsection, or leave the record open for additional written evidence or testimony as provided in paragraph 11 of this subsection.
- (7) The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.
- (8) Presenting and receiving evidence.

 - (a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
 - (b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
 - (c) Members of the hearing body may visit the property and the surrounding area and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
- (9) The hearing body, in making its decision, shall consider only facts and arguments in

the public hearing record; except that it may take notice of any local, state, or federal regulations.

- (10)** If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.
- (11)** If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:

 - (a)** When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - (b)** An extension of the hearing or record granted pursuant to this section is subject to the limitations of Section 18.20.040 (ORS 227.178 – 120 day rule), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
 - (c)** If requested by the applicant, the hearing body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.
- (12)** The Notice of Quasi-Judicial Decision shall contain all of the following information:

 - (a)** A description of the applicant’s proposal and the City’s decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b)** The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor’s map may be used);
 - (c)** A statement of where the City’s decision can be obtained;

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

(e) A statement that all persons entitled to notice may appeal the Planning Commission's decision to City Council pursuant to subsection 18.20.025.4, or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

4. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:

A. Who may appeal. The following people have legal standing to appeal:

- (1) The applicant or owner of the subject property; and
- (2) Any other person who testified orally or in writing during the subject public hearing before the close of the public record.

B. Appeal filing procedure.

- (1) **Notice of appeal.** Any person with standing to appeal, as provided in subsection 4.A above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
- (2) **Time for filing.** A Notice of Appeal shall be filed with the City Planning Official within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
- (3) **Content of notice of appeal.** The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (a) An identification of the decision being appealed, including the date of the decision;
 - (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (c) A statement explaining the specific issues being raised on appeal; and
 - (d) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

C. Scope of appeal. The appeal of a Type III Quasi-Judicial Decision shall be on the record before the City Council. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision. To reverse or modify the Planning Commission's decision, the City Council must conclude that the Planning Commission committed an error of law or that there was not sufficient evidence to support the Planning

Commission's decision.

5. Record of the Public Hearing.

A. The official public hearing record shall include all the following information:

- (1) All materials considered by the hearings body;
- (2) All materials submitted by the City Planning Official to the hearings body regarding the application;
- (3) The minutes of the hearing;
- (4) The final written decision; and
- (5) Copies of all notices given as required by this section, and correspondence regarding the application that the City mailed or received.

B. The meeting minutes shall be filed in hardcopy form with the City Planning Official. The minutes and other evidence presented as a part of the hearing shall be part of the record.

C. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

6. Effective Date and Appeals to State Land Use Board of Appeals. A Type III Quasi-Judicial Decision or Appeal Decision, as applicable, is effective the date the City mails the decision notice. Appeals of City Council decisions under this section shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

18.20.030 Type IV Land Use Review Procedure (Quasi-Judicial Review with Comprehensive Plan Amendment or Annexation)

Type IV decisions are quasi-judicial land use decisions made by the City Council following a recommendation from the Planning Commission after a public hearing. These reviews involve a comprehensive plan amendment or annexation.

1. Application Requirements.

A. Application Forms. Applications requiring Type IV Quasi-Judicial review shall be made on forms provided by the City Planning Official.

B. Submittal Information. The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all the following information:

- (1) The information requested on the application form;

- (2) Plans and exhibits required for the specific approval(s) being sought;
- (3) A written statement or letter explaining how the application satisfies each and all the relevant criteria and standards in sufficient detail;
- (4) Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable;
- (5) The required fee.

2. Pre-Hearing Procedure.

A. Completeness Review: The City Planning Official shall review the submitted application and determine if the Application is complete within 60 days of receiving the Application.

B. Mailed and Posted Notices.

- (1) The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - (a) All owners of record of real property located within a minimum of 100 feet of the subject site;
 - (b) Any person who submits a written request to receive a notice; and
 - (c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Planning Official shall notify the road authority if different than the City of Burns. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
- (2) The City Planning Official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.
- (3) At least 14 days before the first hearing, the Applicant or applicant's representative shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Planning Official. The applicant shall submit an affidavit of notice using a form provided by the City, which shall be made a part of the file. The affidavit shall state the date that the notice was posted.

- (4) At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.

C. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:

- (1) A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
- (2) The date, time, and location of the scheduled hearing;
- (3) The street address or other clear reference to the location of the proposed use or development;
- (4) A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to the Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- (5) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;
- (6) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- (7) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- (8) A statement that the initial public hearing will be in front of the Planning Commission who will make a recommendation to the City Council. A second public hearing in front of the City Council will follow the Planning Commission hearing. After which, the City Council will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

3. Conduct of the Public Hearing.

- A.** At the commencement of the hearing, the Chairperson of the Commission or Mayor, as applicable, or his or her designee, shall state to those in attendance all of the following information and instructions:

- (1) The applicable approval criteria by Code section that apply to the application;
- (2) Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
- (3) Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
- (4) Failure to raise constitutional or other issues with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude pursuit of action in court on that issue;
- (5) At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See, subsection 18.20.030.3.
- (6) Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 10 of this subsection, or leave the record open for additional written evidence or testimony as provided in paragraph 11 of this subsection.
- (7) The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.
- (8) Presenting and receiving evidence.
 - (a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
 - (b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and

- (c) Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
- (9) The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record; except that it may take notice of any local, state, or federal regulations.
- (10) If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.
- (11) If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:
- (a) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
- (b) An extension of the hearing or record granted pursuant to this; and
- (c) If requested by the applicant, the hearing body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.
- (12) The Notice of Quasi-Judicial Decision shall contain all the following information:
- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);

- (c) A statement of where the City's decision can be obtained;
- (d) The date the decision shall become final, unless appealed; and
- (e) A statement that all persons entitled to notice may appeal the Planning Commission's decision to City Council pursuant to subsection 18.20.025.4, or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

5. Record of the Public Hearing.

A. The official public hearing record shall include all of the following information:

- (1) All materials considered by the hearings body;
- (2) All materials submitted by the City Planning Official to the hearings body regarding the application;
- (3) The minutes of the hearing;
- (4) The final written decision; and
- (5) Copies of all notices given as required by this section, and correspondence regarding the application that the City mailed or received.

B. The meeting minutes shall be filed in hardcopy form with the City Planning Official. The minutes and other evidence presented as a part of the hearing shall be part of the record.

C. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

6. Effective Date and Appeals to State Land Use Board of Appeals. For LUBA appeals purposes, a Type IV land use decision is a final decision on the date the City mails the decision notice. Appeals of City Council decisions under this section shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860. For City operations and land development purposes, the effective date of the decision shall be the effective date of the ordinance.

18.20.035 Type V Amendments (Legislative Decisions)

1. Timing of Requests. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120 day review period under ORS 227.178.

2. Application Requirements.

A. Initiation Action. Type V legislative amendments to the City's Comprehensive Plan or Land Use Regulations may only be initiated by a two thirds majority of the Planning Commission or by resolution of the City Council. When initiated by the Planning Commission, the City Planning Official shall provide a memo to the City Council describing the Commission's initiation action. The City Planning Official shall open a new planning file following initiation of the planning project by the Planning Commission or the City Council.

B. Working Documents. The City Planning Official shall maintain copies of working documents, digital and analog as applicable and store them in the project file so the legislative history of the actions can be understood. Analog working documents may be digitized and kept with the balance of the digital records.

3. Procedure.

Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

A. The City Planning Official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.

B. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

(1) Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another, commonly referred to as "Ballot Measure 56 Notice"), see ORS 227.186 for instructions;

(2) Any affected governmental agency;

(3) Any person who requests notice in writing; and

(4) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

C. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.

D. For each mailing and publication of notice, the City Planning Official shall keep an

affidavit of mailing/publication in the record.

4. **Final Decision and Effective Date.** A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance.

18.20.040 Time Limit, Consolidated Review, and City Planning Official's Duties

1. **Time Limit – 120 day Rule.** The City shall take final action on Type II and Type III applications, pursuant to this section, including resolution of all appeals, within 120 days from the date the City Planning Official deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120 day rule does not apply to Comprehensive Plan Amendments or Annexations.)
2. **Time Periods.** In computing time periods prescribed or allowed by this section, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.
3. **Consolidated Review of Applications.** When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, the highest procedural level of review shall be applied to all the applications. For example, a consolidated application requiring one Type III land use review and two Type II land use reviews will be consolidated and all applications processed in accordance with the Type III procedures. Notices may be consolidated, but the notice shall identify each application to be decided.
4. **City Planning Official's Duties.** The City Planning Official, or his or her designee, shall perform all of the following duties with regard to administration of this Code:
 - A. Prepare application forms based on the provisions of this Code and applicable state law;
 - B. Prepare required notices and process applications for review and action;
 - C. Assist the Planning Commission and City Council in administering the hearings process;
 - D. Answer questions from the public regarding the City's land use regulations;
 - E. Prepare staff reports summarizing pending applications, including applicable decision criteria;
 - F. Prepare findings consistent with City decisions on land use and development applications;
 - G. Prepare notices of final decisions, file the notices in the City's records, and mail a copy of the notices to all parties entitled to notice under this Code; and

H. Maintain and preserve the file and public record for each application.

18.20.100 Land Divisions and Property Line Adjustments

18.20.110 Purpose. The purpose of this section is to implement the following objectives:

1. Provide rules, regulations, and standards governing the approval of subdivisions, partitions, and property line adjustments as follows:
 - A. Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one (1) calendar year.
 - B. Partitions are the creation of three or fewer lots from one parent lot, parcel, or tract within one calendar year.
 - C. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
2. Carry out the City's development pattern, as envisioned by the City's comprehensive plan.
3. Encourage efficient use of land resources and public services, and to provide transportation options.
4. Promote the public health, safety, and general welfare through orderly and efficient urbanization.
5. Ensure units of land are appropriately configured for urban development in a manner that take appropriate account of transportation facilities, water supply, sanitary sewage, fire protection, pollution control, surface water management, and protection against natural hazards.

18.20.115 General Requirements

1. **Subdivision and Partition Approval Through Two-Step Process.** Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:
 - A. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
 - B. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 18.20.160; they are not subject to Sections 18.20.115 through 18.20.155.

2. **Compliance With Oregon Revised Statutes (ORS) 92.** All subdivision and partition

proposals shall conform to state regulations in Oregon Revised Statute (ORS) 92 Subdivisions and Partitions.

3. **Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than three times the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future in a manner that would allow future development at not more than 150% of the minimum density for the zone. See also, Section 18.20.130 Schematic Planning for Large Sites.
4. **Utilities.** All lots created through land division shall have public utilities and facilities such as streets, water, sewer, gas, and electrical systems at the property boundary for each newly created lot pursuant to section 18.40. These systems shall be located and constructed underground where feasible.
5. **Drainage.** All subdivision and partition proposals shall comply with Section 18.30.325 for floodplain development permit within a regulatory flood hazard zone and shall provide surface water drainage facilities engineered to accommodate the design year storm, the 10-year storm, in a manner that will release waters in quantity and location less than or equal to the pre-development conditions.
6. **Adequate Access.** All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant to Sections 18.50.220 and 18.50.400.

18.20.120 Preliminary Plat Approval Process

1. **Review of Preliminary Plat.** Subdivision preliminary plats shall be processed using the Type III procedure under Section 18.20.025 and Partition preliminary plats shall be processed using the Type II procedure (unless elevated to a Type III at the discretion of the Planning Official). All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section 18.20.145.
2. **Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of four years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to Section 18.20.145, within the four-year period. The Planning Commission may approve phased subdivisions, pursuant to Section 18.20.125, with an overall time frame of more than four years between preliminary and final plat approvals. For phased subdivisions, the Applicant shall specifically request the effective period requested for the phased project and the approving authority shall specify the effective time frames as conditions of approval.
3. **Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Section 18.20.400. The Planning Commission may, upon written request by the applicant and

payment of the required fee, grant written extensions of the approval effective period not to exceed one year per extension, provided that all of the following criteria are met:

- A. Any changes to the preliminary plat follow the procedures in Section 18.20.400;
- B. The applicant has submitted written intent to file a final plat within the one-year extension period;
- C. An extension of time will not prevent the lawful development of abutting properties;
- D. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
- E. The extension request shall be received by the Burns Planning Department addressing all the requirements in subsections A through D above before expiration of the original approved plan.

18.20.125 Phased Subdivision. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets all of the following criteria:

- 1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than four years;
- 2. Public facilities shall be constructed in conjunction with or prior to each phase;
- 3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
- 4. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
- 5. Planning Commission approval is required for modifications to phasing plans.

18.20.130 Schematic Planning for Large Sites

- 1. **Purpose.** This section requires the schematic planning of large sites. Applications requesting annexation or zone change shall include a consolidated application for schematic plan approval or shall be conditioned to require a schematic plan prior to land division or vertical construction. Schematic plans are intended to avoid piecemeal development and plan the logical extension of infrastructure.
- 2. **Applicability.** This section applies to annexations or zone changes affecting more than 40 acres of land under the same contiguous ownership, even where only a portion of the site is proposed

for annexation or zone change. This section does not apply to annexations or zone changes that file concurrent applications for Planned Unit Development. For the purposes of this section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.

3. **Schematic Plan Required.** Prior to submittal of an annexation petition or zone change for an area subject to this Section, the schematic plan shall be submitted to the City Planning Official with the required application materials for the project or proposal. The schematic plan shall illustrate the type and location of planned streets, utility corridors, parks, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership.
4. **Criteria.** The schematic plan required under subsection C shall include sufficient level of detail so that the City officials can determine that it meets the following land development layout criteria:
 - A. Streets are interconnected to the extent practicable; blocks in residential and commercial areas are walkable in scale. Blocks in commercial and residential areas shall be less than 800 feet in length (centerline-to-centerline). The approving authority may allow longer blocks at their discretion based upon topography, existing development, other physical features, or planned land uses that require larger blocks. The approving authority may require pedestrian access ways that connect through blocks that exceed 800 feet;
 - B. Water, sewer, and storm drainage facilities shall be planned logically for extension to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan shall describe conceptually how such improvements will be accommodated;
 - C. Overall, the plan can feasibly achieve a housing density that is consistent with the Comprehensive Plan and Development Code; and
 - D. The plan identifies land areas needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.
5. **Implementation.** The City will review the Schematic Plan required by this section. The City will refer the plan to outside agencies with jurisdiction for their input. Future development and land division requests shall be consistent with the approved Schematic Plan with respect to block layout and infrastructure extension or the Applicant shall request an amendment to the Schematic Plan prior to or concurrently with the subsequent development or land division applications.

18.20.135 Lot Size Averaging, Flag Lots, and Infill Lots

1. **Lot Size Averaging for Subdivisions.** To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and

other natural and built features, the approval body may grant up to a 20 percent modification to the lot area and/or lot dimension (width/depth) standards in Section 18.50.100, on up to 25 percent of the proposed lots in the subdivision provided that the overall density of the subdivision does not exceed the allowable density of the district; except this section shall not be used to modify the lot width to less than 45 feet.

2. **Flag Lots.** Flag lots may be created when the spacing between existing parallel streets in the street grid are spaced 800 feet or less centerline-to-centerline. A flag lot driveway (“flag pole”) shall serve not more than two parcels. The width of the flagpole shall be not less than 22 feet and not more than 40 feet. The length of the flagpole shall not be longer than 2.5 times the lot depth (excluding the flagpole).
3. **Emergency Vehicle Access.** A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure, or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).
4. **Maximum Drive Lane Length.** The maximum length of a drive serving more than one dwelling is subject to requirements of the Uniform Fire Code.

18.20.140 Preliminary Plat Submission Requirements

Applications for Preliminary Plat approval shall contain all of the following information:

1. General Submission Requirements.

- A. Information required for a Type II review for Partitions and Type III reviews for Subdivisions (see Sections 18.20.020 and 18.20.025); and
- B. Public Facility Plan. An Oregon Registered Professional Engineer shall provide a preliminary public facility plan that demonstrates how all lots to be created will be served by streets, municipal water, sanitary sewer and storm drainage. The City’s Public Works Department is available to advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system (for subdivisions and planned unit developments of 20 or more dwelling units); water system; and sewer system. For each system, the plan shall propose improvements necessary to meet City standards under adopted ordinances and identify any off-site facility improvements necessary to implement adopted facility Master Plan projects necessary to serve the proposed lots or to meet service standards identified adopted facility Master Plans or the Comprehensive Plan. The City may require a Traffic Impact Analysis pursuant to Section 18.40.015 for proposed land divisions in commercial or industrial zones.

2. Preliminary Plat Information.

In addition to the general information described in subsection

1, above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide all the following information, in quantities determined by City Planning Official:

A. General information:

- (1) Name of subdivision (partitions are named by year and file number), which shall not duplicate the name of another land division in Harney County;
- (2) Date, north arrow, and scale of drawing;
- (3) Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- (4) Zoning of parcel to be divided, including any overlay zones;
- (5) A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- (6) Identification of the drawing as a “preliminary plat.”

B. Existing Conditions. Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all the following information on existing conditions of the site:

- (1) Streets: Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site;
- (2) Easements: Width, location, and purpose of all existing easements of record on and abutting the site;
- (3) Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- (4) Ground elevations shown by contour lines at two-foot vertical intervals or less. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor;
- (5) The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- (6) The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable if any portion of the land to be divided is located within a regulatory floodplain;

- (7) North arrow and scale; and
- (8) Other information, as deemed necessary by the City Planning Official for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

C. Proposed Development. Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all the following information on the proposed development:

- (1) Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- (2) Easements: location, width, and purpose of all proposed easements;
- (3) Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
- (4) Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
- (5) Proposed public street improvements, pursuant to Section 18.40.015;
- (6) On slopes exceeding an average grade of 10 percent, as determined by the City Public Works, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
- (7) Preliminary design for extending City water and sewer service to each lot, per Section 18.40.025;
- (8) Proposed method of storm water drainage and treatment, if required, pursuant to Section 18.40.030;
- (9) The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- (10) Evidence of compliance with applicable overlay zones, including but not limited to City of Burns Flood Hazard Area Overlay; and
- (11) Evidence of facility access coordination with the applicable road authority for

proposed new street connections.

18.20.145 Preliminary Plat Approval Criteria

- 1. Approval Criteria.** The Planning Commission may approve, approve with conditions, or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all the following approval criteria:
 - A.** The land division application shall conform to the requirements of Section 18.20.100 through 18.20.140;
 - B.** All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Sections 18.30, 18.40 and 18.50, except where as allowed by Section 18.20.135.
 - C.** Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to sections 18.40 and 18.50;
 - D.** The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS 92;
 - E.** The proposed streets, utilities, and surface water drainage facilities conform to City of Burns adopted master plans and applicable engineering standards, and allow for logical extension to adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
 - F.** All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas will be assured through appropriate legal instrument;
 - G.** Evidence that any required state and federal permits, as applicable, are not precluded as a matter of law; and
 - H.** Evidence that improvements or conditions required by the City, road authority, Harney County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.
- 2. Conditions of Approval.** The Planning Commission may attach such conditions as are necessary to carry out the provisions of this Code, and other applicable ordinances and regulations.

18.20.150 Land Division-Related Variances

Variances shall be processed in accordance with Section 18.20.525. Applications for variances shall be submitted concurrently with an application for land division or lot line adjustment is

submitted; the applications shall be reviewed concurrently.

18.20.155 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the Planning Official, Public Works Director and the Fire Chief prior to recording with Harney County. The final plat submission requirements, approval criteria, and procedure are as follows:

- 1. Submission Requirements.** The applicant shall submit the final plat within four years of the approval of the preliminary plat as provided by Section 18.20.120. The format of the plat shall conform to ORS 92.
- 2. Approval Process and Criteria.** By means of a Type I Review, the City Planning Official shall review and approve or deny the final plat application based on findings of compliance or noncompliance with all the following criteria:
 - A.** The final plat is substantially consistent in design (e.g., number, area, dimensions of lots, easements, tracts, rights-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
 - B.** All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of Burns (e.g., road authority), or otherwise bonded in conformance with Section 18.40.120;
 - C.** The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
 - D.** All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;
 - E.** The plat and deed contain a dedication to the public of all public improvements, including, but not limited to, streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;
 - F.** As applicable, the applicant has furnished acceptable copies of Covenants, Conditions, and Restrictions (CC&Rs); easements; maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;
 - G.** Verification by the City that water and sanitary sewer service is available to every lot depicted on the plat; and
 - H.** The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS 92, indicating the initial point of the survey, and giving the dimensions

and kind of each monument and its reference to some corner approved by the Harney County Surveyor for purposes of identifying its location.

18.20.160 Filing and Recording

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat (“lot of record”) shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

- 1. Filing and Recording Plat with County.** Within 60 days of City approval of the final plat, the applicant shall submit the final plat to Harney County for signatures of County officials, as required by ORS 92. The final plat shall be recorded with the County no later than 120 days after City approval.
- 2. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- 3. Prerequisites to Recording the Plat.**
 - A.** No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS 92.
 - B.** No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS 92.

18.20.165 Re-platting and Vacation of Plats

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to ORS 271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

18.20.170 Property Line Adjustments

A Property Line Adjustment is the modification of a lot or parcel boundary when no lot or parcel is created. The City Planning Official reviews applications for Property Line Adjustments pursuant to the Type I procedure under Section 18.20.015. The application submission and approval process for Property Line Adjustments is as follows:

- 1. Submission Requirements.** All applications for Property Line Adjustment shall be made on

forms provided by the City and shall include information required for a Type I review, pursuant to Section 18.20.015. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions, footprints and dimensions of existing structures (including accessory structures), location and dimensions of driveways and public and private streets within or abutting the subject lots/parcels, location of lands subject to the City of Burns Flood Hazard Area Overlay, existing fences and walls, and any other information deemed necessary by the Planning Official for ensuring compliance with City codes. The application shall be signed by all the owners as appearing on the deeds of the subject lots.

2. Approval Criteria. The City Planning Official shall approve or deny a request for preliminary property line adjustment in writing, based on all of the following criteria:

A. Parcel Creation. No additional parcel or lot is created by the lot line adjustment;

B. Lot standards. All lots and parcels conform to the applicable lot standards of the zoning district in Section 18.50 including lot area, dimensions, setbacks, and coverage. In the case of nonconformities, the adjusted property lines shall not create any new non-conformity nor shall any lawful pre-existing non-conformity be made less conforming. As applicable, all lots and parcels shall conform the City of Burns Flood Hazard Area Overlay; and

C. Access and Road authority Standards. All lots and parcels before and after the adjustment shall conform to the standards or requirements of Section 18.50.200 Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.

3. Recording Property Line Adjustments

A. Recording. Upon the City's preliminary planning approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Harney County within 1 year of approval (or the decision expires) and submit a copy of the recorded survey map to the City, to be filed with the approved application. Extension may be requested and granted in the manner provided for preliminary partition plat extension.

B. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 30 days of recording and prior to any application being filed for a building permit on the re-configured lots.

18.20.200 Site Design Review

18.20.210 Purpose

The purpose of this section is to advance all the following objectives in the public interest:

1. Carry out the development pattern and plan of the City and its comprehensive plan policies

through efficient and effective review of site development proposals;

2. Promote the public health, safety, and general welfare;
3. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and
4. Encourage efficient use of land resources and public services, and the provision of transportation options.

18.20.215 Applicability

Site Design Review approval is required for all new development, except for development for which an exception is specifically provided for herein. The Planning Official may require Site Design Review for the expansion of a non-conforming use or development during application completeness review. Except as specified by a condition of approval of a prior City decision, or unless subject to Conditional Use Permit approval, a Type II Site Design Review is not required for the following:

1. Change in occupancy of an existing developed site, provided the number of existing lawful off-street parking spaces for the proposed new use is not less than 75% of the minimum off-street parking spaces required for the proposed use as if the use were proposed as new development on the site. The Applicant can comply with this standard by obtaining and providing evidence of long-term parking leases of at least a 10 year duration on property within 300 feet of the site.
2. Single-family detached dwelling (including manufactured home) on its own lot.
3. A single duplex;
4. Non-residential building construction of up to 20 percent increase in building square footage is proposed or less than 1,500 square feet is proposed, whichever is greater. The 20 percent increase shall be calculated in-aggregate based upon the most recent Site Design Review approval for the site. If there is no Site Design Review approval of record for the site, the 20 percent increase shall be calculated in-aggregate based upon the best estimate of building square-footage that existed on the site as shown on the 1994 aerial photos of the City.

Notwithstanding the expansion provisions in this section, the Applicant shall demonstrate the minimum off-street parking spaces required by the code for the existing uses plus the proposed construction shall be provided and all applicable development standards of the code shall be met by the proposed construction. Notwithstanding the foregoing in this section, a Type II Site Design Review is still required if the proposed construction will create any additional or relocated access points to the public right-of-way or proposes any drive-through lanes or proposes any new loading berths.

5. Home occupation, except for uses requiring a Conditional Use Permit;

6. Development and land uses that are substantially consistent with an approved Site Design Review or Conditional Use Permit application;
7. Public improvements required by City standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), as determined by the City Planning Official, except where a condition of approval requires Site Design Review; and
8. Regular maintenance, repair, and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair.
9. Horizontal construction of a new surface parking lot in a commercial or industrial zone of less than 40 spaces subject to all applicable surface parking lot and landscaping design standards of the code.

18.20.220 Review Procedure

Outside the Downtown Commercial Core Overlay, Site Design Review shall be conducted using the Type II procedure in Section 18.20.020. Within the Downtown Commercial Core Overlay, all Site Design Reviews shall be conducted using the Type III procedure in Section 18.20.025. Site Design Reviews are often required to be submitted concurrently with other application types requiring a higher level of review such as Conditional Use Permits, Variances, Expansion of Non-Conforming Use, etc. and in such cases the Site Design Review will be processed in accordance with the level of review prescribed by the Code.

18.20.225 Application Submission Requirements

All the following information is required for Site Design Review application submittal, except where the City Planning Official determines that some information is not pertinent and therefore is not required.

1. General Submission Requirements.

- A. Information required for Type II or Type III review, as applicable (See Sections 18.20.020 and 18.20.025).
- B. A Public Facilities and Services Impact Study for non-residential development is required unless waived in writing by the Planning Official. The impact study shall quantify and assess the effect of the development on public facilities and services. The City Public Works shall advise as to the scope of the study, as will ODOT for any proposals that take access from a State Highway. The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City requirements. The City may require a Traffic Impact Analysis pursuant to Section 18.40.015 Applicants are entitled to rely on any Public Facilities and Services Impact Study provided as part of a

previously approved zone change for the site where the proposed site development is substantially consistent with impacts projected to result at the time the zone change was approved.

2. Site Design Review Information. In addition to the general submission requirements an applicant for Site Design Review shall provide the following information, as deemed applicable by the City Planning Official. The City Planning Official may request any information that he or she needs to review the proposal and prepare a complete staff report and recommendation to the approval body.

A. Site analysis map. The site analysis map shall contain all the following information, as the City Planning Official deems applicable:

- (1) The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
- (2) Topographic contour lines at two-foot intervals for slopes, except where the Public Works Director determines that larger intervals will be adequate for steeper slopes;
- (3) Identification of slopes greater than 15 percent, with slope categories identified in 5 percent increments (e.g., 0%-5%, >5%-10%, >10%-15%, >15%-20%, and so forth);
- (4) The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
- (5) Potential natural hazard areas, including, as applicable, the base flood elevation identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, county, or state as having a potential for geologic hazards;
- (6) Areas subject to overlay zones;
- (7) Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals, and ditches;
- (8) The location, size, and species of trees and other vegetation (outside proposed building envelope) having a caliper (diameter) of 12 inches greater at 4 feet above grade;
- (9) North arrow, scale, and the names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and
- (10) Name and address of project designer, engineer, surveyor, and/or planner, if applicable.

B. Proposed site plan. The site plan shall contain all the following information:

- (1) The proposed development site, including boundaries, dimensions, and gross area;
- (2) Features identified on the existing site analysis maps that are proposed to remain on the site;
- (3) Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- (4) The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- (5) The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
- (6) The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
- (7) The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
- (8) Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
- (9) Loading and service areas for waste disposal, loading, and delivery;
- (10) Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
- (11) Location, type, and height of outdoor lighting;
- (12) Location of mail boxes, if known;
- (13) Name and address of project designer, if applicable;
- (14) Locations of bus stops and other public or private transportation facilities; and
- (15) Locations, sizes, and types of signs.

C. Architectural drawings. Architectural drawings shall include, as applicable:

- (1) Building elevations with dimensions;
- (2) Building materials, colors, and type; and

(3) Name and contact information of the architect or designer.

D. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for development sites one-half acre or larger, or where otherwise required by the City. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.

E. Landscape plan. Where a landscape plan is required, it shall show the following, pursuant to Section 18.50.315:

- (1) The location and height of existing and proposed fences, buffering, or screening materials;
- (2) The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
- (3) The location, size, and species of the existing and proposed plant materials (at time of planting);
- (4) Existing and proposed building and pavement outlines;
- (5) Specifications for soil at time of planting, irrigation if plantings are not drought tolerant (may be automatic or other approved method of irrigation), and anticipated planting schedule; and
- (6) Other information as deemed appropriate by the City Planning Official. An arborist's report may be required for sites with mature trees that are to be retained and protected.

F. Deed restrictions. Copies of all existing and proposed restrictions or covenants, including those for roadway access control.

G. Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 18.20.230.

H. Traffic Impact Analysis. when required by Section 18.40.015.

I. Other information. determined by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Code.

18.20.230 Approval Criteria

An application for Site Design Review shall be approved if the proposal meets all of the following criteria. The approving authority, in approving the application, may impose reasonable conditions

of approval, consistent with the applicable criteria.

1. The Applicant's submittal information, in accordance with Section 18.20.225, above is adequate to determine compliance with applicable development standards, required public improvements based upon (but not necessarily limited to) the public facility and services impact study, and criteria;
2. The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Section 18.10.055 Non-Conforming Situations;
3. The proposal complies with all of the applicable Zoning Regulations, Public Facility Standards, and Development Standards in Sections 18.30, 18.40, and 18.50;
4. For non-residential uses, the project site layout and improvements are designed to minimize potential impacts, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact in a manner that gives appropriate consideration to the physical development fundamentals of the proposed use; and
5. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

Note: Compliance with other City codes and requirements, though not applicable land use criteria, may be required prior to issuance of building permits.

18.20.235 Assurances

Public improvement required as part of a Site Design Review approval shall be subject to the performance guarantee and warranty bond provisions of Section 18.40.120, as applicable.

18.20.240 Compliance With Conditions, Permit Expiration, and Modifications

Development shall not commence until the applicant has received all applicable land use and development approvals. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require bonding or other assurances for improvements. Site Design Review approvals are subject to all the following standards and limitations:

1. **Approval Period.** Site Design Review approvals shall be effective for a period of four years from the date of approval.
2. **Extension.** The City Planning Official, upon written request by the applicant, may grant a written extension of the approval period not to exceed one year; provided that:
 - A. No changes are made on the original approved plan;

- B. The applicant can show intent of initiating construction on the site within the one-year extension period;
- C. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the subject plan does not comply with those changes, then the extension shall not be granted; in this case, a new Site Design Review shall be required; and
- D. The applicant demonstrates that failure to obtain building permits and substantially begin construction within four years of site design approval was beyond the applicant's control.

3. Modifications to Approved Plans and Developments. Modifications to approved plans are subject to City review and approval under Section 18.20.400.

18.20.300 Conditional Use Permits

18.20.310 Purpose

There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. Conditional uses are identified in Section 18.30 Zoning Regulations. The purpose of this section is to provide procedures and standards for permitting conditional uses.

18.20.315 Approvals Process

The Planning Commission using a Type III procedure, per Section 18.20.025, reviews conditional use applications. Modifications to conditional use permits are subject to Section 18.20.400.

18.20.320 Application Submission Requirements

In addition to the submission requirements for a Type III review under Section 18.20.025, applications for conditional use permits shall include a description of existing conditions, a site plan, and information on any existing and any proposed restrictions or covenants. (For a more detailed description of each item, please refer to Section 18.20.225 Site Design Review Application Submission Requirements). An application for a Conditional Use Permit shall provide proposed findings of fact and conclusions of law explaining how the applicable approval criteria in Section 18.20.325 are satisfied.

18.20.325 Criteria, Standards, and Conditions of Approval

The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, including requests to enlarge or alter a conditional use, based on findings of fact with respect to all the criteria and standards in subsections 1 and 2, below.

1. Use Criteria

- A. The site size, dimensions, location, topography, and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.
- B. Site Design Review submittals demonstrate all applicable development standards of the code are satisfied.
- C. The potential negative impacts of the proposed use, if any, on adjacent properties and on the public can be substantially mitigated through application of other Code standards, or other reasonable conditions of approval.
- D. In the alternative to criterion C above, the approving authority may conclude there is an overriding public interest and benefit to be derived from the proposed use in the proposed location that justifies the conditional use permit in spite of the potential for negative impacts that are not substantially mitigated. The approving authority shall still consider and impose reasonable conditions of approval intended reduce the identified potential negative impacts.
- E. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards.
- F. A conditional use permit shall only be issued for uses or development designated as conditionally allowed uses in the applicable zoning district, and except where the code specifically allows for expansions or alterations of non-conforming use or development through conditional use permit. A conditional use permit shall not function as an alternative to a variance.

2. Conditions of Approval

The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized (or reduced in the case of a conditional use) with an overriding public benefit. These conditions include, but are not limited to, one or more of the following:

- A. Limiting the hours, days, place, and/or manner of operation;
- B. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor, and/or dust;
- C. Requiring larger setback areas, lot area, and/or lot depth or width;
- D. Limiting the building or structure height, size, lot coverage, and/or location on the site;

- E. Designating the size, number, location, and/or design of vehicle access points or parking and loading areas;
- F. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;
- G. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- H. Limiting the number, size, location, height, and/or lighting of signs;
- I. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
- J. Requiring berms, screening, or landscaping and the establishment of standards for their installation and maintenance;
- K. Requiring and designating the size, height, location, and/or materials for fences;
- L. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands; and
- M. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards.

18.20.400 Modifications to Approved Plans and Conditions

18.20.410 Purpose

The purpose of this section is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

18.20.415 Applicability

This section applies when an applicant proposes to modify an approved application or condition of approval.

18.20.420 Major Modifications

1. Major Modification

Major modifications shall be reviewed pursuant to the procedure applicable to the original application. Any one of the following changes constitutes a major modification:

- A. A change in land use prior to occupancy of the site by the use originally contemplated for the site, from a less intensive use to a more intensive use, as evidenced by parking, paved area, an estimated increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is 20 percent or more of one of these factors;
- B. An increase in floor area or lot coverage in a commercial or industrial development, or an increase in the number of dwelling units in a multifamily development, by 20 percent or more, or an increase in floor area or lot coverage in a public/community/institutional use development of 50 percent or more;
- C. A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic when the roadway authority determines the change could cause a significant adverse impact on traffic operations or safety (i.e., requiring mitigation);
- D. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by 20 percent or more;
- E. Change to a condition of approval, or a change similar to items A-D, above, that could have a detrimental impact on adjoining properties. The City Planning Official shall have discretion in determining detrimental impacts triggering a major modification; or
- F. Other changes similar to those in items A-E, above, in scale, magnitude, or impact to adjacent properties, as determined by the City Planning Official.

2. Major Modification Applications; Approval Criteria

Requests for major modifications shall conform to all the following procedures and criteria:

- A. The applicant shall submit an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The City may require other relevant information, as necessary, in evaluating the request;
- B. The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with Section 18.20.300;
- C. The scope of review shall be limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with Section 18.20; and
- D. The approving authority shall approve, deny, or approve with conditions an application for major modification based on written findings on the applicable Code criteria (e.g., subdivision, Site Design Review, conditional use, etc.).

18.20.425 Minor Modifications

1. Minor Modification

The City Planning Official through a Type I or II procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for Minor Modifications. Minor modifications include changes to an approved plan or conditions of approval, and technical corrections to comply with codes and regulations, that fall below the thresholds in subsection 18.20.420.1 above, as determined by the City Planning Official.

2. Minor Modification Applications; Approval Criteria

- A.** An application for minor modification shall include an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The City Planning Official may require other relevant information, as necessary, in evaluating the request.
- B.** The City Planning Official shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Development Code and the conditions of approval of the original decision.

18.20.500 Adjustments and Variances

18.20.510 Purpose

This section provides standards and procedures for adjustments and variances, which are modifications to development standards that are not otherwise permitted elsewhere in this Code.

18.20.515 Intent

Adjustments are a form of variances that are intended to provide relief from code standards in specific situations. Both procedures are intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

1. Adjustments

Adjustments provide relief from specific code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements. Adjustments are allowed in limited situations pursuant to Section 18.20.520.

2. Variances

Variances provide greater flexibility to code standards than adjustments, where the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a code standard. Variances are allowed pursuant to Section 18.20.525.

18.20.520 Adjustments

Adjustments are minor modifications to Code standards that are intended to provide reasonable flexibility for planned land uses and development. Adjustments are subject to the following standards and procedures. Use permissibility, as provided in Section 18.30, shall not be adjusted.

1. Applicability

The City Planning Official, through a Type II procedure, may adjust the following standards:

- A. Side and Rear Yard Setbacks:** Up to a 15 percent reduction to minimum side and rear-yard setbacks. In addition, one side or one rear yard setback may be reduced to 3 feet for proposed structures less than 15 feet in height on lots that were lawfully created prior to January 1, 1995, with an existing single-family dwelling built (or manufactured dwelling placed) prior to January 1, 1995.
- B. Lot Coverage:** Up to a 15 percent increase to the maximum lot coverage.
- C. Lot Dimensions:** Up to a 15 percent decrease to a minimum lot dimension.
- D. Lot Area:** Up to a 15 percent decrease in minimum lot area.
- E. Other Dimensional Standards:** Up to a 10 percent increase or decrease in a quantitative (numerical) standard not listed above. This option is limited to standards in Section 18.50; it does not include building code requirements, engineering design standards, public safety standards, or standards implementing state or federal requirements, as determined by the City Planning Official.

2. Approval Criteria

The City may grant an Adjustment only upon finding that all the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

- A.** The Adjustment allows for a building plan that does not create a substantial conflict with adjacent uses when compared to development under the code without the adjustment;
- B.** The Adjustment is appropriate to allow for normal interior building functions, such as mechanical equipment/utility closets, heating and ventilation systems, restrooms, stockrooms, shelving, and similar interior building functions;
- C.** Approval of the Adjustment does not create (a) violation(s) of any other adopted ordinance or code standard, and does not cause an exogenous need for a Variance;
- D.** An application for an Adjustment is limited to one lawful pre-existing lot per application. Single tax lots with multiple underlying pre-existing subdivision lots shall be treated as a single lot for processing purposes under this section; however, the specific proposal may

require conditions of approval that the pre-existing subdivision lots be consolidated by deed or property line adjustment prior to issuance of building permits;

- E. Requests for more than one Adjustment on the same lot shall be consolidated on one application and reviewed concurrently by the City;
- F. Not more than two Adjustments may be approved for one lot or parcel; and
- G. All applicable building code requirements and engineering design standards shall be met.

18.20.525 Variances

1. Applicability

A Variance is an adjustment that does not otherwise meet the criteria under Section 18.20.520, and is requested for a development standard. Variances cannot be taken to required procedures or any approval criteria.

2. Approval Criteria

The Planning Commission through a Type III procedure may approve a Variance upon finding that it meets all of the following criteria:

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

18.20.530 Expiration

Approvals granted under Sections 18.20.520 and 18.20.525 shall expire if not acted upon by the property owner within two years of the City approving the adjustment or the variance. Where the owner has applied for a building permit or final plat, has made site improvements consistent with an approved development plan (e.g., Site Design Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the City Planning Official may extend an approval accordingly.

18.20.600 Planned Unit Developments

18.20.610 Purpose

The purposes of this section are to:

1. Implement the Comprehensive Plan by providing a means for master planning development sites as an alternative to traditional subdivision development;
2. Encourage innovative planning that results in projects that benefit the community, for example, through greater efficiency in land use, improved protection of open spaces, transportation efficiency, and housing choices;
3. Encourage housing options for a range of household sizes, incomes, and lifestyles;
4. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
5. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
6. Encourage energy efficiency and improved air and water quality;
7. Implement public facility master plans; and
8. Provide flexibility in development standards, consistent with the above purposes.

18.20.615 Applicability

The planned unit development designation may be applied to any of the City's zoning districts. It is an option available for all development and land use review applications for sites at least 2 net acres in size (2 net acres being the fee acreage exclusive of adjacent rights-of-way).

18.20.620 Review and Approvals Process

1. Review Steps

There are three required steps to planned unit development approval. The first two steps may

be completed individually or combined for concurrent review:

- A. Application for planned unit development concept plan approval;
- B. Application for detailed development plan approval, which may include a preliminary land division plan; and
- C. Application(s) for final development plan (e.g., final plat and/or site design review for conditions compliance) approval.

2. Approval Process

- A. The planned unit development concept plan shall be reviewed pursuant to the Type III procedure in Section 18.20.025, the submission requirements in Section 18.20.630, and the approval criteria in Section 18.20.635.
- B. The detailed development plan and preliminary land division plan shall be reviewed using the Type II procedure in Section 18.20.020 to ensure substantial compliance with the approved concept plan.
- C. Site design review applications for approved planned developments shall be reviewed using a Type II procedure in Section 18.20.020 to ensure substantial compliance with the approved concept plan.
- D. Steps A-C, above, may be combined in any manner, so long as the decision-making sequence follows the above order. Notification and hearings may also be combined.

18.20.625 Modifications to Development Standards

The standards of Sections 18.30, 18.40, and 18.50 may be modified through the planned unit development process without the need for adjustments or variances under 18.20.520 and 18.20.525. Applications shall identify and clearly explain the modifications to development standards proposed in the planned unit development. Modifications may be proposed as part of concept plan and detail plan submittals; modifications submitted with final plans are reviewed for compliance with the concept plan or detail plan approvals, but new modifications cannot be requested as part of final plan submittal and review. In evaluating this criterion, the approving authority shall consider whether the proposal, on balance, will result in superior quality development that provides greater community benefits than would otherwise occur under the base Development Code requirements. In evaluating community benefits, the approving authority shall apply the following criteria; the City may deny an application for Planned Unit Development concept plan approval that does not meet all the following criteria:

1. Comprehensive Plan

The modification does not conflict with the Comprehensive Plan. A Planned Unit Development may exceed the maximum residential density (minimum lot size) permitted by the underlying

zone, provided that the overall density of the project (average of total dwelling units per acre) is not greater than 120 percent of the density permitted by the underlying zone.

2. Superior Quality Development Demonstration

The proposed modifications are reasonably expected to result in an overall development that will be superior in quality to development under the base regulations by demonstrating one or more of the following:

- A. Greater variety of housing types or lot sizes than would be achieved under the base Development Code standards;
- B. More open space or more usable open space than would result from application of the base Development Code standards;
- C. Greater protection of natural features than would result from application of the base Development Code standards;
- D. Avoidance of natural hazards (e.g., geological hazards, river resources, or flood hazards);
- E. Improved transportation connectivity or facilities, such as the provision of pathways and/or other transportation facilities, that would not otherwise be provided pursuant to base Development Code requirements; or
- F. Integrated mix of housing and employment that will have complimentary design elements throughout.

3. Engineering Design Standards

Planned Unit Developments shall not be a basis modify the City's Engineering Design Standards for public improvements, such as street structural sections, acceptable water line materials, etc. This section does not prohibit code modifications that request alternative streetscape elements like planter strips, lane widths, sidewalks, curbs, pedestrian bulb-outs, special street lighting and similar streetscape elements.

18.20.630 Concept Plan Submission

1. General Submission Requirements

An application for a Concept Development Plan shall follow the submission requirements for a Type III review under Section 18.20.025, and shall include all the following:

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

- B. Development schedule indicating the approximate dates when construction of the project and its various phases, if any, including public facilities, are expected to be initiated and completed;
- C. Proposed findings of fact and conclusions of law explaining how the proposed PUD concept plan complies with the relevant criteria in Section 18.20.635;
- D. Maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple; and
- E. Additional reports or studies prepared by qualified professionals, as required by the City Manager, to determine potential project impacts and mitigation, if any, related to transportation; public facilities; geologic or other hazards; architecture; noise, light, solar access, air quality, or similar concerns; and natural features.

2. Additional Information

In addition to the general information described in subsection 1, above, the concept plan, data, and narrative shall include all the following exhibits and information:

- A. Existing conditions map, as defined in Section 18.20.225 Site Design Review Application Submission Requirements;
- B. Conceptual plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
- C. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated);
- D. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
- E. Architectural concept (e.g., plans illustrate architectural styles, building heights, and general materials);
- F. Sign concept plan (e.g., locations, general size, style, and materials of signs), as applicable; and
- G. Copy of all existing covenants and restrictions, and a general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

18.20.635 Concept Plan Approval Criteria

The City, in approving or approving with conditions a Concept Plan, shall make findings that all the following criteria are met:

1. The proposal conforms to any Comprehensive Plan intended by the language and context to function as approval criteria for the proposed PUD concept plan;
2. If a tentative plan for land division is concurrently proposed, and except as may be modified under Section 18.20.625, all the requirements for land divisions, under Section 18.20.100, are met;
3. Except as may be modified under Section 18.20.625, all other applicable requirements of Sections 18.30, 18.40, and 18.50 are met;
4. Concept Plans for PUDs that are between 5 acres and 12 acres shall contain a minimum of 10 percent open space, and PUDs larger than 12 acres shall contain a minimum of 15 percent open space, which may be public, private, or a combination of public and private open space. The identified open space areas shall relate to the rest of the PUD in a manner that is appropriate for the intended use and function of the open space area; active recreation components shall be convenient to access for intended users of the open space area. Plans may provide space for both active and passive recreational uses, and may include, but are not limited to, neighborhood parks, pathways/trails, natural areas, plazas, and play fields. Open space areas shall be shown on the final plan and recorded with the final plat or separate instrument; the open space shall be conveyed in accordance with one of the following methods:
 - A. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the Planning Commission with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide an environmental assessment), and approved by City Council based on budgetary, maintenance, and liability considerations; or
 - B. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association, or other legal entity. The terms of such lease or other instrument of conveyance must include provisions for maintenance and property tax payment acceptable to the City. The City, through conditions of approval, may also require public access be provided, where the open space is deemed necessary, based on impacts of the development and to meet public recreational needs pursuant to the Comprehensive Plan.
5. **Modifications to Standards.** Modifications to Code standards must conform to the criteria in Section 18.20.625.

18.20.640 Concept Plan and Expiration and Termination

1. **Filing.** Upon approval of a concept plan, the approved plan, including any conditions of approval, shall be binding on future uses and development of the property, except where an approval expires or if an Applicant obtains approval to terminate the PUD.
2. **Expiration.** Except as provided by subsection C, below, a concept plan shall become void four years after the date of approval if the applicant, or successor, has not filed with the City an application for detailed development plan and final plat (if land division was approved

concurrently with the PUD Concept Plan) approval in conformance with Sections 18.20.645 and 18.20.650 for at least the first phase. After the detailed plan and final plan for at least the first phase has been approved, final plat has been obtained (if land division was approved with the Concept Plan) and all required public improvements for the first phase have been constructed, then the PUD Plan shall be considered initiated and non-expiring.

3. **Extension.** The City may grant extensions of the concept plan approval period, not to exceed one year per extension, provided that the extension request is made before expiration of the planned unit development approval, the applicant can show intent of applying for detailed development plan review within the one-year extension period, and there have been no substantive changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.
4. **Termination.** Termination of the PUD can be requested according to a Type III procedure. The request for termination shall be made by at least 50% of the ownership of at least 50% of the vacant portions of the PUD, subject to the following criteria:
 - A. Less than 20% of the land area of the PUD has been issued building permits for vertical construction, unless at least 70% of the owners the portions of the PUD with building permits for vertical construction consent in writing to the termination of the PUD.
 - B. The approving authority concludes that vacant land within the PUD can feasibly be developed in a manner consistent with base standards of the applicable zoning districts within the PUD.

18.20.645 Detailed Development Plan Submission

Detailed development plan submittal requirements are determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan submittal shall meet the minimum requirements for final plat submission under Section 18.20.155 (if the PUD included land division) and shall contain information demonstrating compliance with the concept plan. The detailed development plan and preliminary land division plan shall be reviewed using the Type II procedure in Section 18.20.020 to ensure substantial conformance to the approved concept plan. Where the proposal is for a multifamily, commercial, or industrial development, Site Design Review is required, pursuant to Section 18.20.200. Site Design Review for detailed development plans shall be processed through the Type II procedure.

18.20.650 Detailed Development Plan Criteria

Approval of the detailed development plan shall be based upon a finding that the final plan substantially conforms to the concept plan, including any concept plan conditions of approval. The detailed development plan shall comply with applicable code standards except where modifications were approved as part of the concept plan review or new proposed modifications are shown to comply with the criteria for modifications at Section 18.20.625.

Minor changes to the approved concept plan may be approved with the detailed plan where the City Planning Official finds that the modification is necessary to correct an error or to address changes in circumstances beyond the applicant's control that have occurred since the date of project approval or where changes reflect a logical detailed plan refinement to the original Concept Plan approval.

Other changes must be reviewed as major modifications under Section 18.20.420.

18.20.655 Type I Final Plan Reviews

Where the City has previously approved PUD concept plan and detailed development plan, final plan reviews for the same project will be processed through a Type I review. The Type I review will verify the final development plans are consistent with the detailed development plan for the applicable portions of the project and that any conditions of approval required prior to final plan review have been satisfied.

18.20.700 Amendments to the Zoning Map or Land Use Regulations or the Comprehensive Plan

This Section sets forth the submittal requirements and criteria for zoning map amendments, changes to the City's land use regulations or amendments to the Comprehensive Plan.

18.20.710 Quasi-Judicial Zoning Map Amendments

1. General Submission Requirements for Type III Zoning Map Amendments (Zone Change)

- A. Information required for Type III review, as applicable (See Section 18.20.025).
- B. A Public Facilities and Services Impact Study is required unless waived in writing by the Planning Official. The impact study shall quantify and assess the effect of the development on off-site public facilities and services and shall explain how the site can feasibly be connected to the City's infrastructure network. The City Public Works shall advise as to the scope of the study and so will ODOT for any proposals that take access from or have the potential to significantly impact a State Highway. Potential impacts shall be based upon assumptions of development intensity typically expected to result from the proposed zoning districts when compared to the existing zoning on the site. The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City requirements.
- C. Proposed Findings of Fact and Conclusions of Law demonstrating how all the applicable criteria for quasi-judicial zoning map amendment are satisfied.

2. Zoning Map Amendment Site Information. In addition to the general submission

requirements, the Applicant shall provide the following information, as deemed applicable by the City Planning Official. The City Planning Official may request any information that he or she needs to review the proposal and prepare a complete staff report to the approving authority.

A. Site analysis map. The site analysis map shall contain all the following information, as the City Planning Official deems applicable:

- (1) The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the property in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
- (2) A series of land use maps with north arrow, scale, and legend. One map shall depict the existing Comprehensive Plan map designation for the property and shall also depict any Comprehensive Plan map overlays that apply to the property. Another map shall depict the existing zoning map designation and shall also depict any zoning map overlays that apply to the property. Another map shall depict proposed zoning for the property.
- (3) Topographic contour lines at five-foot intervals for slopes, except where the Public Works Director determines that larger intervals will be adequate for steeper slopes;
- (4) The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
- (5) Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals, and ditches;
- (6) Names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and

3. Criteria. The Planning Commission shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections A through C below:

- A.** The proposed zone is consistent with the Transportation System Plan (TSP) and the Comprehensive Plan Map designation.
- B.** For proposed zone changes to SFR-7, the minimum contiguous area of SFR-7 zoning shall be three or more gross acres, and the average lot size of single-family residential parcels developed with dwellings within 250-feet of the proposed zoning district shall be no greater than 7,000 square feet.
- C.** The proposed zone can feasibly and will be served with urban services and facilities, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (3) below. The minimum standards for transportation facilities and other public facilities are set forth in the

applicable facility master plans.

- (1) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or they must be able to be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction. Off-site facilities can be shown to be adequate if the site was assumed to be developed at an intensity typical for the proposed zone in the applicable facility master plan and if the master plan does not identify the need for off-site improvements necessary to serve the site under the proposed zoning.
- (2) Adequate streets and street capacity must be provided in accordance with Oregon Administrative Rule 660-012-0060, commonly referred to as the Transportation Planning Rule (TPR). Any request for approval under subsection (9) of the TPR may be allowed but the Planning Commission is under no obligation to approve a zone change seeking to rely on subsection (9); the Planning Commission may request the Applicant provide additional information concerning safety impacts, congestion impacts and public benefits for any zone change request pursuant to subsection (9). For planned improvements that may otherwise be relied upon for transportation facility adequacy under the TPR, Public Works Department may still require that planned improvements be constructed prior to issuance of building permits for reasons of public safety and, when possible, shall base findings for the required improvements on the safety review required by the Public Facilities and Services Impact Study.
- (3) The Planning Commission may mitigate potential impacts on public facilities and services through the imposition of special development conditions, stipulations, or restrictions attached to the zone change. Special development conditions, stipulations, or restrictions shall be established by deed restriction or covenant and must be recorded at the Harney County Recorder's office with proof of recordation returned to the Planning Department. Such special development conditions include but are not limited to:
 - (a) Development amount thresholds that can be undertaken before specific infrastructure components are constructed.
 - (b) Public Facilities and Services Impact Study refinements that will identify when specific infrastructure components, identified in the Public Facilities and Services Impact Study for the entire zone change area, will be needed to serve certain zone change areas or development amount thresholds.
 - (c) Limitations on development intensities in the zone change area.
 - (d) For transportation facilities, other mitigation measures allowed by the Transportation Planning Rule.

18.20.715 Quasi-Judicial Comprehensive Plan Map Amendments

1. General Submission Requirements for Type IV Quasi-judicial Comprehensive Plan amendments.

- A. Information required for Type IV review, as applicable (See Section 18.20.030).
- B. A Public Facilities and Services Impact Study is required unless waived in writing by the Planning Official. The impact study shall quantify and assess the effect of the development on off-site public facilities and services and shall explain how the site can feasibly be connected to the City's infrastructure network. The City Public Works shall advise as to the scope of the study and so will ODOT for any proposals that take access from or have the potential to significantly impact a State Highway. Potential impacts shall be based upon assumptions of development intensity typically expected to result from the proposed comprehensive plan map designations when compared to the existing comprehensive plan map designations on the site. The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City requirements.
- C. Proposed Findings of Fact and Conclusions of Law demonstrating how all the applicable criteria for quasi-judicial Comprehensive Plan amendment are satisfied.

2. Comprehensive Plan Amendment Site Information. In addition to the general submission requirements an applicant for comprehensive plan amendment, the Applicant shall provide the following information, as deemed applicable by the City Planning Official. The City Planning Official may request any information that he or she needs to review the proposal and prepare a complete staff report.

- A. **Site analysis map.** The site analysis map shall contain all the following information, as the City Planning Official deems applicable:
 - (1) The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the property in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
 - (2) A series of land use maps with north arrow, scale, and legend. One map shall depict the existing Comprehensive Plan map designation for the property and shall also depict any Comprehensive Plan map overlays that apply to the property. Another map shall depict the existing zoning map designation and shall also depict any zoning map overlays that apply to the property. Another map shall depict proposed any proposed Comprehensive Plan Map amendments for the property.
 - (3) Topographic contour lines at five-foot intervals for slopes, except where the Public Works Director determines that larger intervals will be adequate for steeper slopes;

- (4) The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - (5) Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals, and ditches;
 - (6) Names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and
3. **Criteria.** The City Council may approve a quasi-judicial comprehensive plan amendment if it finds that the amendment satisfies all the criteria in subsections A through D below:
- A. The proposed changes are consistent with the balance of the Comprehensive Plan.
 - B. The proposed amendment will significantly advance one or more goals, policies or objectives that are established and set forth in the Comprehensive Plan; Map amendments shall include an analysis that demonstrates the proposed map designation is locationally appropriate when considering impacts and interactions with the planned land uses around the area where the map amendment is proposed.
 - C. Public facilities are adequate or can be made adequate to support the proposed Comprehensive Plan amendment or public facilities planning can feasibly and will be completed to serve the Comprehensive Plan amendment.
 - D. The proposed amendment is consistent with Oregon State Law, the Oregon Statewide Planning Goals and all applicable Oregon Administrative Rules.

18.20.720 Legislative Amendment Criteria

The City Council may approve legislative amendments to the Comprehensive Plan or Land Use Regulations. Amendments will address the criteria in subsections 1 through 5 below:

- 1. Appropriateness of the Type V planning process that was undertaken for the planning project in terms of scale, scope, and content.
- 2. Consistency with the balance of the City’s Comprehensive Plan and Land Use Regulations.
- 3. Advancement of Council goals, objectives, or policies, and/or necessity to comply with Oregon State Law, the Statewide Planning Goals, or Oregon Administrative Rules.
- 4. Public facility planning implications of the proposed amendments.
- 5. Consistency with Oregon State Law, the Oregon Statewide Planning Goals and all applicable Oregon Administrative Rules.

18.20.725 Record of Amendments. The City Planning Official shall maintain a record of amendments to the Comprehensive Plan Map and Zoning Map, as well as amendments to the text of the Comprehensive Plan and this Development Code. Said record shall be kept in a format convenient for public reference and use, and in the case of Comprehensive Plan Map and Zoning Map amendments, the map shall be made a part of the ordinance.

Planning Commission Hearing
DRAFT
6/14/2023

18.30.000 ZONING REGULATIONS

18.30.100 Purpose

Section 18.30 regulates allowed land uses (“uses”) and is intended to implement the City of Burns Comprehensive Plan and the purposes of this Code, pursuant to Section 18.10.015.

18.30.110 Applicability

All real property in the City of Burns is subject to the zoning regulations of Section 18.30. Certain types of land uses are also subject to the Special Use standards in Section 18.30.200. In addition, some properties are subject to both the general (“base zone”) regulations of Section 18.30 and the Overlay Zone regulations of Section 18.30.300. Property owners, realtors, project proponents, and others are advised to verify the regulations that apply to a particular property before beginning a new project, purchasing real estate, or marketing a property for sale.

18.30.120 Classification of Zoning Districts

Section 18.30 establishes zoning districts, consistent with the City of Burns Comprehensive Plan. Every unit of land (parcel, lot, tract, and right-of-way) within the City of Burns is designated with a zoning district or “zone,” and may also be designated with one or more overlay zones. The use of land is limited to the uses allowed by the applicable zone(s). Zoning designations are as depicted on the City of Burns Zoning Map. The Planning Official maintains official copies of the Zoning Map and Comprehensive Plan. Where a conflict between documents arises, the Comprehensive Plan shall govern.

1. Residential Districts (SFR-4, SFR-7, MFR)

Residential zoning districts are intended to accommodate a mix of residential uses at planned densities and to allow non-residential uses appropriate for residential areas. The following summarizes the purpose of each residential district.

- A.** The SFR-4 district permits residential uses at densities between 2 and 4 dwelling units per gross acre. Permitted residential uses consist primarily of detached single-family housing, duplex housing, and Public/Community/Institutional uses appropriate for single-family residential areas. Limited commercial uses that are appropriate for residential zones are also permitted (e.g., day care nursery/kindergarten/youth clubs).
- B.** The SFR-7 district permits residential uses at densities between 3 and 7 dwelling units per gross acre. Permitted residential uses consist of detached (e.g., single-family and duplex) housing, and Public/Community/Institutional uses appropriate for single-family residential areas. Limited commercial uses that are appropriate for residential zones are also permitted (e.g., day care nursery/kindergarten/youth clubs).
- C.** The MFR district permits attached (e.g., townhouse and multifamily) housing residential uses, and Public/Community/Institutional uses appropriate for multiple-family residential

areas. Limited commercial uses that are appropriate for residential zones are also permitted (e.g., day care nursery/kindergarten/youth clubs).

2. Commercial District (GC)

The Commercial zoning district accommodates a mix of commercial services, retail, and civic uses, and new residential uses permitted in the upper stories of some buildings subject to special standards.

3. Employment Districts (Business Park, Industrial).

Business Park and Industrial zoning districts accommodate a mix of intensive and less intensive uses engaged in manufacturing, processing, warehousing, distribution, and similar activities. Two zoning districts, one for business parks and one for industrial, provide for the full range of planned employment land uses within the city. Both districts are intended to provide for efficient use of land and public services, provide a high quality environment for business, offer a range of parcel sizes and locations for employment site selection, and facilitate compatibility between dissimilar uses. The Business Park district provides suitable locations for a mix of light industry, office, and institutional uses. The Industrial district provides suitable locations for intensive industrial uses, such as those with processing, manufacturing, assembly, packaging, distribution, or other activities.

4. Open Space Districts (OS).

The Open Space (OS) district is to conserve and protect needed and desirable open spaces, livestock activities, wildlife resources, hazard areas, natural areas, renewable energy resource sites, surface water runoff areas, and cultural areas; to enhance the value to the public of neighboring open space; and to promote orderly urban development.

18.30.125 Determination of Zoning District Boundaries

Where due to the scale, lack of scale, lack of detail, or illegibility of the Zoning Map, or due to any other reason, there is uncertainty, contradiction, or conflict as to the intended location of a zoning district boundary, the Planning Official or, upon referral, the Planning Commission, shall determine the boundary as follows:

- 1. Right-of-way.** Boundaries that approximately follow the centerlines of a street, highway, alley, bridge, or other right-of-way shall be construed to follow such centerlines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a zoning district boundary, the vacated lands within the former right-of-way shall be allocated proportionately to the abutting zoning districts.
- 2. Parcel, lot, tract.** Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries.

3. **Jurisdiction boundary.** Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary.
4. **Natural feature.** Boundaries indicated as approximately following a river, stream, topographic contour, or similar feature not corresponding to any feature listed in subsections 1-3, above, shall be construed as following such feature.

18.30.130 Permissible Use Descriptions and Review Procedures

1. **General Use Categories.** Table 18.30.130 specifies the land uses that are allowed in the applicable zoning districts. If it is unclear from the table if a use is allowed, the City may determine permissibility of the use by following the procedures of Section 18.30.135 Similar Use Determinations.
2. **Permitted Uses with Special Use Standards.** Uses listed as “Permitted (P)” are allowed provided they conform to Section 18.50.100 Lot and Development Standards. Uses listed as “Permitted Subject to Special Use Standards (Ps)” are allowed, provided they conform to the Section 18.30.200 Special Use Standards and Section 18.50.100 Lot and Development Standards. Uses listed as “Not Allowed (X)” are prohibited.
3. **Conditionally Permitted Uses.** Uses listed as “Conditional Use Permit Required (CU)” are allowed subject to the requirements of Section 18.20.300 Conditional Use Permits.
4. **Uses Regulated by Overlay Zones.** Notwithstanding the provisions of Section 18.30, additional standards may apply to uses within overlay zones. An overlay zone may also allow some uses not otherwise allowed or prescribe alternative development the standards to the underlying zone. See Section 18.30.300.
5. **Planned Unit Developments.** Uses that are not otherwise allowed by the underlying zone may be permitted through the Planned Unit Development procedures under Section 18.20.600.
6. **Accessory Uses.** For information on other uses that are customarily allowed as accessory, please refer to the description of the Use Categories in Section 18.10.065 Definitions.
7. **Temporary Uses.** For information on temporary uses, please refer to Section 18.30.275 Temporary Uses.

**Table 18.30.130
Uses Allowed by Zoning District**

USE CATEGORY	SPECIFIC USE	SFR 4	SFR 7	MFR	GC	BP	I	OS	USES SUBJECT TO SPECIAL STANDARDS
RESIDENTIAL USES									
Detached Dwellings	1 st Site Built Single-Family Dwelling on Individual Parcel	P	P	P	P _s	P _s	P _s	X	18.30.240
	Accessory Dwelling Unit	P _s	P _s	P _s	X	X	X	X	18.30.225
	1 st Manufactured Dwelling on Individual Parcel	P _s	P _s	P _s	P _s	P _s	P _s	X	18.30.260 (SFR & MFR districts) 18.30.285 (GC, BP, I districts)
	Manufactured Dwelling Park	X	C	P _s	X	X	X	X	18.30.265
	2 or More Primary Dwellings (Not ADUs) on one parcel	C	C	P	X	X	X	X	
	Residential Home	P	P	P	P	X	X	X	18.30.250
Attached Dwellings	Duplex	P	P	P	P _s	X	X	X	18.30.240
	Tri-plex	X	X	P	P _s	X	X	X	18.30.240
	Four or more dwelling units	X	X	P	P _s	X	X	X	18.30.240
Group Quarters	Retirement or Congregate Living Facility	C	C	P	C	X	X	X	
	Dormitories	C	C	P	C	X	X	X	
	Nursing Home/Long-term Care facility	C	C	P	C	X	X	X	
	Residential Facility	X	X	P	P _s	X	X	X	18.30.250
COMMERCIAL / SERVICE / EMPLOYMENT USES									
Home Occupation	Home Occupation	P _s	P _s	P _s	P _s	P _s	P _s	X	18.30.255
On-Site Sales of Goods	Retail Sales Within Enclosed Building	X	X	X	P	P	P _s	X	18.30.230
	Retail Sales With Less Than 30% of Site Area for Outdoor Sales & Storage	X	X	X	P	P	P _s	X	18.30.230
	Retail Sales With Greater Than 30% of Site Area for Outdoor Sales & Storage	X	X	X	P _s	P	P _s	X	18.30.340
	Eating or Drinking Establishment	X	X	X	P	P	X	X	
	Eating Establishment with Drive-Through	X	X	X	P _s	P _s	X	X	18.30.340 18.50.425

	Vehicle Fueling Station	X	X	X	P _s	P	P _s	X	18.30.340 Commercial fueling depots only permitted in the Industrial (I) Zone
Services	Professional Office Services (non-medical)	P	P	X	P	P	X	X	Unusual to allow in residential zones
	Financial Services with Drive-Through	X	X	X	C	P	X	X	18.30.340 18.50.425
	Financial Services without Drive-Through	X	X	X	P	P	X	X	
	Medical Services (Excluding Hospitals)	P	P	X	P	P	X	X	Unusual to allow in residential zones
	Medical Marijuana Dispensary	X	X	X	C	X	X	X	
	Personal Services	X	X	X	P	P	X	X	
	Durable & Electronic Goods Repair or Services with Less Than 30% of Site Area for Outdoor Storage	X	X	X	P _s	P _s	P	X	Uses prohibited outside enclosed buildings in GC and BP zones within 200-feet of residential zone
	Durable & Electronic Goods Repair or Services With Greater Than 30% of Site Area for Outdoor Storage	X	X	X	P / (C)	P / (C)	P	X	CUP in GC and BP zones if within 200-feet of residential zone
	Animal Services	X	X	X	P / (C)	P / (C)	P	X	CUP in GC & Business Park Zones if Outdoor Kennel or Shared Interior Wall with Separately Owned Property
	Contracting Services	X	X	X	P / (C)	P / (C)	P	X	CUP in GC or BP zones if Outdoor Storage Area or On-site Fabrication exceeds 30% of site area
	Vehicle or Equipment Rental Services	X	X	X	P	P	P	X	
	Other Rental Services	X	X	X	P	P	P	X	
	Entertainment Establishment within Enclosed Building	X	X	X	P	P	C	X	
	Entertainment Establishment with Outdoor Uses	X	X	X	P _s	P _s	C	X	18.30.235
Child Family Day Care (16 or fewer children)	P	P	P	P	P	X	X	18.30.245	

	Commercial Day Care (17 or more children)	C	C	C	P	P	X	X	
Parking	Stand-alone Parking Lot	P / (C)	P / (C)	P	P	P	P	P / (C)	Not subject to Type II Site Plan Review; however, must meet all applicable design standards for commercial parking lot CUP for >8 spaces in (C) designated zones
Overnight Accommodations	Hotel or Motel	X	X	C	P	P	X	X	
	Short-Term Dwelling Rental	P _s	P _s	P _s	P _s	X	X	X	18.30.290
	Recreational Vehicle (RV) Park	X	X	X	P _s	P _s	X	X	18.30.295
Industrial	Manufacturing	X	X	X	P _s	P	P	X	18.30.230
	Materials Processing	X	X	X	C	P _s	P	X	18.30.230
	Warehousing or Logistics	X	X	X	C	P	P	X	
	Goods & Materials Handling	X	X	X	C	C	P	X	
	Self-Storage	X	X	X	C	P	P	X	
	Energy Production	X	X	X	X	C	P	X	
	Laboratory	X	X	X	C	P	P	X	
TRANSPORTATION / UTILITIES / SOLID WASTE USES									
Transportation	Surface Transportation Facilities & Improvements	P	P	P	P	P	P	P	
	Transit Facilities	P	P	P	P	P	P	P	
Utilities	Wireless Communication Facilities	C	C	C	P _s	P _s	P _s	P _s	18.30.280
	Municipal Utility Collection, Transmission, and Facilities	P	P	P	P	P	P	P	
	Above-ground transmission facilities	C / (P)	C / (P)	C / (P)	P	P	P	P	(P) for modifications or improvements to existing facilities in a (C) designated zone
	Underground transmission facilities	P	P	P	P	P	P	P	
	Substations	C	C	C	C	P	P	C	
Solid Waste	Wrecking/Salvage Yard	X	X	X	X	C	P	X	
	Recycling Center	X	X	X	P	P	P	X	
	Other Solid Waste	X	X	X	C	C	C	X	
PUBLIC / COMMUNITY / INSTITUTIONAL USES									
Schools	Public or Private (K-12)	C / (P)	C / (P)	C / (P)	C	C	X	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
	Vocational	X	X	X	P	P	P	C	

	College/University	X	X	X	P	P	C	C	
	Seminary	C	C	C	P	P	C	C	
Faith Institutions	House of Worship	C / (P)	C / (P)	C / (P)	P	P	C	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
	Youth Ministry	C / (P)	C / (P)	C / (P)	P	P	C	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
Hospitals	Hospital	C / (P)	C / (P)	C / (P)	P	P	C	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
Post Office	Post Office	X	X	X	P	P	P	X	
Library	All types	C / (P)	C / (P)	C / (P)	P	P	C	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
Museum	All types	C / (P)	C / (P)	C / (P)	P	P	C	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
Public Community Facilities	Government Centers	C / (P)	C / (P)	C / (P)	P	P	C	C	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
	Fairgrounds	X	X	X	P	P	C	C	
	Community & Multi-Use Buildings	C / (P)	C / (P)	C / (P)	P	P	C	C / (P)	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
Private Community Facilities	Golf Courses & Driving Ranges	C	C	C	P	P	C	P	
	Membership Clubs (social, fraternal, recreation, sports, etc.)	C / (P)	C / (P)	C / (P)	P	P	C	C / (P)	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
	Shooting Range	X	X	X	C	C	P	C	
	Community & Multi-Use Buildings	C / (P)	C / (P)	C / (P)	P	P	C	C / (P)	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
Parks & Open Space Uses	Park/playground	C / (P)	C / (P)	C / (P)	P	P	C	C / (P)	(P) for modifications or improvements to existing facilities or expansions < 50% in a (C) designated zone
	Passive Open Space	P	P	P	P	P	P	P	
	Agriculture	P / (P _s)	P / (P _s)	P / (P _s)	P / (P _s)	P / (P _s)	P	P / (P _s)	18.30.270

18.30.135 Similar Use Determinations

This section sets forth the process to make similar use determinations.

18.30.140 Purpose

Table 18.30.130 seeks to classify the universe of potential land uses. However, such a listing and classification will never be complete and some future land uses will end up unclassified. The purpose of this section of the code is to provide a process for the City of Burns to interpret the use table in relation to an unclassified use and make a final land use decision to determine of the use can be considered a permitted, specially permitted, or conditional use within the applicable zone.

18.30.145 Applicability

The requested land use must be distinguishable from uses classified in the use Table in 18.30.130.

18.30.150 Procedure

Requests for similar use determinations shall be based upon a specific use and not a broad category of uses. The request shall be processed under a Type III application and procedure. The application can be combined with other applications, but lower types (i.e., Type I or Type II) shall be elevated to a Type III when a similar use determination is requested. Similar use determinations can also be processed as a stand-alone Type III application.

18.30.155 Criteria

- 1. Unclassified Determination.** The approving authority shall review the development code and reach a supported conclusion that the proposed use is meaningfully distinguishable from other land uses elsewhere classified in the code.
- 2. Use Determination.** Only if criterion 1 is satisfied, the approving authority shall review the development code to determine if the proposed use is similar to uses otherwise allowed in the applicable zoning district. Based upon a review of the specific uses classified and permitted, the code as a whole, and any relevant guidance provided by the Comprehensive Plan, the approving authority shall reach a supported conclusion that determines if the use is prohibited, permitted, permitted subject to special use standards, or can be allowed subject to approval of a conditional use permit.

18.30.200 Special Use Standards

The Special Use Standards of the code apply to uses designated with a P_s in the use Table.

18.30.210 Purpose

Special uses included in Section 18.30 are uses which, due to their potential to affect surrounding properties or other planning objectives of the City, must be developed in accordance with special

conditions and standards. These special use standards may differ from the development standards established for other uses in the same zoning district.

18.30.215 Applicability

All uses designated as Special (“P_s”) Uses in Table 18.30.130, and uses the City determines to be similar to such uses, are subject to the standards of this section. The standards of this section supplement the other requirements of this Code. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

18.30.220 Review Process

Because the special use standards are development standards driven, the applicable review process (Type I, Type II, or Type III) is the same for special uses as the procedures applicable to permitted uses; the review procedure determines compliance with the requirements of Section 18.30.200. Notwithstanding the foregoing, the Planning Official may elevate any Type I review to a Type II review for a special use, if the Planning Official determines this is the most appropriate procedure to apply the special use standards to the particular use or site.

18.30.225 Accessory Dwelling Units (ADUs)

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure, pursuant to Section 18.20.015, and shall conform to all the following standards:

- 1. One Unit.** A maximum of one Accessory Dwelling unit is allowed per legal lot.
- 2. Floor Area.** An Accessory Dwelling unit shall not exceed 900 square feet of floor area. The unit may be detached, a unit attached to a dwelling, or inside a portion of an existing dwelling.
- 3. Building Design.** The Accessory Dwelling shall be constructed of materials that are the same or similar to the materials used on the primary dwelling. The Accessory Dwelling shall comply with applicable Oregon Structural Specialty Code requirements.
- 4. Building Height.** The height of an accessory dwelling shall not exceed the height of the primary dwelling.
- 5. Parking.** A minimum of two off-street parking spaces are required, total, for a site containing an Accessory Dwelling unit. The parking spaces shall be on an improved all-weather surface.

18.30.230 Accessory Light Manufacture Uses

- 1. Purpose.** The following provisions are intended to encourage mixed-use development, including cottage industries and business incubators, by integrating small-scale manufacturing with commercial uses. For the purposes of this section, light manufacture uses are those that blend manufacturing and retail uses such as brewpubs, winery tasting rooms, artist studios, cabinet makers, and similar uses, on the same site.

2. Applicability. The following standards apply where manufacturing uses are specially permitted in commercial and business park zones and where retail uses are specially permitted in business park or industrial zones. The standards are applied through Site Design Review or Conditional Use Permit review, as applicable.

3. Standards.

- A.** Where a manufacturing or materials processing use is allowed in a commercial or business park zone, it shall be permitted only in conjunction with a primary commercial use and shall not exceed the floor area of the primary commercial use.
- B.** Where a manufacturing use is allowed in a commercial or business park zone, it shall be wholly enclosed in a building, unless unenclosed operations are authorized by a Conditional Use Permit.
- C.** Where a manufacturing use is allowed in a commercial zone and the subject site is located within 100 feet of a residential zone, the City may limit the hours of operation of the commercial or industrial uses to between 7:00 a.m. and 9:00 p.m. where it has identified concerns about noise, parking, or other impacts related to the use.
- D.** Where a commercial use is allowed in an industrial zone, it shall be permitted only in conjunction with the primary industrial use and shall not exceed the floor area of the primary industrial use.

18.30.235 Entertainment Establishment with Outdoor Uses.

1. Purpose. This section provides standards that are intended to minimize noise disturbances from Entertainment Establishments with Outdoor Uses (e.g., outdoor amplified music).

2. Applicability. The following noise level standards apply where an Entertainment Establishment with an Outdoor Use is located within 250-feet of any residentially zoned property. These standards are in addition to any other noise regulations adopted by the City and contained within the City of Burns Municipal Code.

3. Standards.

A. Noise from outdoor entertainment venues shall not exceed the following statistical levels during any one hour.

(1) 75dBA at L₇₀ between the hours of 7:00 p.m. to 9:00 p.m.

(2) 75 dBA at L₅₀ between the hours of 9:00 p.m. to 12:00 a.m.

B. Sound measurements shall be taken from the residentially zoned property line that is nearest the noise source and within 250-feet therefrom.

18.30.240 Dwellings in Commercial Zones.

- 1. Purpose.** This section provides standards for residential uses in the GC and BP zones.
- 2. Standards.** Residential uses in the GC and BP zones shall conform to all the following standards:
 - A.** Residential uses may be located anywhere above the ground floor of a structure.
 - B.** Ground-floor residential uses may not occupy any portion of the storefront, generally identified as the initial portion of the side(s) of a building fronting a street, except the ground-floor entrances or breezeways may be located on a street frontage to provide access to dwelling units.
 - C.** Ground-floor residential uses are also limited to occupying no more than 20 percent of the area of the ground floor.

18.30.245 Family Daycare.

Family daycare uses are limited to on-site care for not more than 16 children and shall conform to the state licensing requirements and standards under ORS 657A.250 and ORS 657A.440(4). Family daycare uses must also have a current City of Burns business license.

18.30.250 Residential Homes and Residential Facilities.

Residential Homes and Residential Facilities, where allowed, shall conform to all the following standards and procedures.

- 1. Licensing and State Requirements.** Residential Homes and Residential Facilities shall be licensed by the State of Oregon and comply with state requirements, pursuant to ORS 197.660 through 197.670.
- 2. Residential Homes.** Residential Homes may provide residential care alone, or in conjunction with treatment or training, for five or fewer individuals who need not be related. Staff required to meet state licensing requirements are not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to single-family dwellings also apply to Residential Homes, except where state law supersedes City standards.
- 3. Residential Facilities.** Residential Facilities may provide residential care alone, or in conjunction with treatment or training, for between 6 and 15 individuals who need not be related. Staff required to meet state licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to multiple family dwellings also apply to Residential Facilities, except where state law supersedes City standards.

4. **Access.** The access and circulation standards of Section 18.50.200 shall be met.
5. **Parking.** The parking and loading standards of Section 18.50.400 shall be met.
6. **Landscaping.** Residential Facilities are required to comply with the landscaping and screening standards of Section 18.50.315. The City may require the installation of a landscape hedge or fence on the property line separating a Residential Facility from an abutting lot containing a single-family dwelling for the purposes of visual screening and privacy between uses. The landscaping standards do not apply to building permits for individual Residential Homes.
7. **Building Design Standards.** Residential Facilities are required to comply with the building orientation and design standards for multifamily housing, pursuant to Section 18.30.240; except where a state requirement conflicts with a City standard, the state requirement, not the City standard, shall apply. The building design standards do not apply to Residential Homes.
8. **Review Procedure.** Residential Homes are subject to review and approval through a Type I review procedure under Section 18.20.015 prior to issuance of building permits. Residential Facilities are subject to a Type II review under Section 18.20.020.

18.30.255 Home Occupations

1. **Purpose.** The purpose of this section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which by the nature of the venture are appropriate in scale and impact to be operated within a residence.
2. **Applicability.** This section applies to Home Occupation uses in all zones. However, nothing in this section shall be construed to limit or disallow commercial or industrial uses where dwelling uses are also allowed but the commercial or industrial uses are approved as the primary use of the property subject to the applicable standards of the code for the relevant commercial or industrial use.
3. **Home Occupation Size.** Home Occupations of less than 800 square feet of lot area are permitted, provided the owner obtains a Type I permit for a Home Occupation and a City of Burns Business License. Home Occupations greater than 800 square feet of lot area are allowed, subject to approval of a Conditional Use Permit. For the purpose of this section, “lot area” includes building floor area, areas within accessory structures, and all other portions of a lot primarily dedicated to the use.
4. **Home Occupation Standards.** Home Occupations shall conform to all the standards below, except the City may approve adjustments to the standards through the Conditional Use Permit approval, provided all uses and structures on the subject property conform to applicable City regulations, including, but not limited to, building codes and nuisance regulations.

A. Appearance of Residence.

- (1) The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
- (2) The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
- (3) The home occupation shall not violate any conditions of development approval (i.e., prior land use development permit or approval).
- (4) No products or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

B. Storage.

- (1) Outside storage visible from the public right-of-way or adjacent properties that exceeds what is customary for a single-family residence in the vicinity is prohibited.
- (2) On-site storage of hazardous materials (including toxic, explosive, noxious, combustible, or flammable material) beyond those normally incidental to residential use is prohibited.
- (3) Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be enclosed in a structure or otherwise screened from view from adjacent properties and public right-of-way.

C. Employees.

- (1) Other than family members residing within the dwelling located on the home occupation site, there shall be not more than two employees at the home occupation site at any given time. As used in this section, the term “home occupation site” means the legal lot on which the home occupation is conducted.
- (2) Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work, pick up, or deliver at the home occupation site.
- (3) The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.

D. Advertising and Signs. Signs for Home Occupations are permitted subject to the standards in Section 18.50.500 for the applicable zoning district.

E. Vehicles, Parking, and Traffic.

- (1) Not more than two commercially licensed vehicles associated with the home occupation are allowed at the home occupation site in the same 24-hour period.

Vehicles shall be of a size that does not overhang into the public right-of-way when parked.

(2) There shall be no commercial vehicle deliveries between 9:00 p.m. to 7:00 a.m.

F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation only from 7:00 a.m. to 9:00 p.m., Monday through Friday.

G. Prohibited Home Occupation Uses.

(1) Any activity that produces radio, TV, or other electronic interference; noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property line, is prohibited.

(2) Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by the home business is allowed.

(3) The following uses, and uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, are prohibited:

(a) Ambulance service

(b) Animal hospital, veterinary services, kennels, or animal boarding

(c) Auto and other vehicle repair, including auto painting

(d) Repair, reconditioning, or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site

18.30.260 Manufactured Home on a Single-Family Lot

Manufactured homes are permitted on individual lots, subject to all the following design standards. Manufactured dwellings relocated into the City of Burns shall conform to City standards. The following standards do not apply to dwellings lawfully established and existing within the City prior to **[effective date of Code]**. See also, Section 18.30.265 regarding Mobile Home and Manufactured Home Parks.

1. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet.

2. **Roof.** The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees).
3. **Residential Building Materials.** The manufactured home shall have exterior siding that is wood, wood composite, or cement board.
4. **Garages and Carports.** If the manufactured home has a garage or carport, the garage or carport shall be constructed of the same pattern and materials as the home.
5. **Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the state Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards, or an equivalent standard, is deemed to satisfy the exterior thermal envelope certification requirement.
6. **Placement.** The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home.
7. **Flood Hazard Area.** Manufactured homes shall comply with Section 18.30.325 Flood Hazard Area Overlay and the following standards.
 - A. The stand shall be a minimum of 12 inches above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. (see also Manufactured Dwelling Specialty Code, 4-3.1(5))
 - B. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE. (See definition of Lowest Floor in Manufactured Dwelling Specialty Code.)
 - C. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for anchoring techniques and 44 Code of Federal Regulations 60.3(c)(6))
 - D. Electrical crossover connections shall be a minimum of 12 inches above BFE. (see Manufactured Dwelling Specialty Code 6-4.2(1))
8. **Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted with concrete, horizontal wood or cement board siding.

18.30.265 **Manufactured Dwelling Parks**

Mobile home and manufactured dwelling parks (not including recreational vehicles) are permitted on parcels of four acres or larger, subject to compliance with subsections 1-4, below:

1. **Permitted Uses.** Single-family residences, manufactured home park manager's office, home occupations, and accessory structures that are necessary for the operation and maintenance of the manufactured dwelling park (e.g., landscape maintenance).
2. **Development Standards.** Development of manufactured and mobile home parks, including placement of manufactured and mobile homes with a park, shall comply with applicable building codes and state requirements for Mobile Home and Manufactured Dwelling Parks in ORS 446.
3. **Perimeter Landscaping.** When manufactured dwellings are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a landscape buffer of 10 feet in width between the right-of-way and a manufactured home park for the privacy and security of park residents or for privacy of adjacent residences.
4. **Flood Hazard Area.** Compliance with Section 18.30.325 Flood Hazard Area Overlay, is required.

18.30.270 **Livestock**

1. **Purpose.** The City of Burns has attempted to accommodate livestock within the corporate City limits since the early 1960s. The City's Comprehensive Plan policies recognize the need to allow livestock within certain areas of the City. However, the Comprehensive Plan does state "... the City shall consider livestock lands to be urbanizable lands, when demonstrated urban need is shown for such lands." The intent is to allow the keeping of livestock until such time as the land is needed for urban land uses. Over time, the keeping of livestock in the City will be diminished.
2. **Livestock Permits Required City-Wide.**
 - A. Livestock permits shall be required for all livestock kept on properties two and one-half acres or smaller unless identified by the Comprehensive Plan as unbuildable due to natural hazards.
 - B. Parcels two and one-half acres or larger, as shown by the Harney County Assessor's Office, shall not require livestock permits.
 - C. Notwithstanding subsection (2)(A) or (B) of this section, any property that previously required a livestock permit shall continue to require a livestock permit regardless of parcel size.

- D. No new livestock permits shall be issued for large animals except lots or parcels resulting from the subdivision or partitioning of lands not previously subject to livestock permitting. New livestock permits may be issued for poultry/fowl in residential zones and the Open Space (OS) District.
- E. A livestock permit may allow for up to one livestock unit per one-half acre. A livestock unit shall be one large animal or five poultry/fowl. Acreages shall be rounded down for purposes of determining the maximum number of livestock units. For example, a two-and-one-half acre property with four large animals could have five poultry/fowl for a total of five livestock units, but a 1.1 acre property with two large animals could not have any poultry/fowl as it already meets the maximum number of livestock units. Properties not subject to livestock permitting are not restricted in the number of livestock units that may be kept on the property.
- F. The Council may, by resolution, suspend the provisions of this section during the time of the Harney County Fair and Rodeo.

3. Application Process.

- A. For each year and with respect to each parcel subject to permitting requirements, the owner thereof shall, not later than December 15th of the preceding year, file with the City Manager or designee an application for a livestock permit.
- B. Each such application shall be made upon forms furnished by the City; shall describe with reasonable certainty the lands to which the application refers; shall describe the species of animals or livestock proposed to be kept thereon; shall contain the name or names and addresses of the owners of record of such land; and shall be submitted with an annual permit fee as set forth by City Council resolution.
- C. Not later than December 1st of each year, the City Manager or designee shall mail to each holder of any such permit a notice informing such permit holder that said permit shall expire on December 31st of that year, and that the right to keep livestock on the lands covered by said permit shall become void, should application for a permit for the succeeding year not be filed by December 31st.
- D. If the City Manager or designee finds the land to which any such application refers is eligible for use in the keeping of such animals or livestock thereon under this section, and that such application meets the requirements of this section, the City Manager or designee shall issue the permit. The property owner for each such permit shall furnish such statements or other evidence as the City Manager or designee may require in determining whether the land to which such application refers is eligible for the keeping of livestock thereon under this section.
- E. Each permit issued pursuant to this section shall be issued to and in the name of the property owner; shall describe with reasonable certainty the land to which it is limited; shall describe the species of livestock to which the permit is limited; shall bear the date of expiration of

such permit; shall be appurtenant to and run with the land therein described; and may not be transferred to another parcel of land.

- F. If a livestock permit application is denied by the City Manager, the owner may appeal the denial to the City Council following the Type III appeal procedures set forth in Section 18.20.025.4.
- G. With respect to any parcel of land for which a permit has been issued pursuant to this section, failure to apply for a permit covering such land for the year following expiration of the existing permit therefor shall automatically render such land ineligible for a livestock permit for large animals.

4. Requirements for Keeping Livestock.

- A. No person keeping livestock may treat or maintain the livestock in violation of any federal, state, or local law.
- B. The parcel of land occupied by any livestock shall be kept in a reasonably clean condition, as determined by the City Manager or designee, or any appropriate state official.
- C. Large animals shall be housed within pens, corrals, sheds or wire enclosures. Poultry/fowl shall be housed within pens or coops. If livestock are permitted to move beyond their housing, such area(s) shall be enclosed with four wire, woven wire, or board fencing with the posts being not further than 16 feet apart. Barbed wire is not permitted within the City limits. All enclosures and fencing shall be designed as to prevent livestock from roaming at large and be constructed and maintained in a workmanlike manner. All gates shall be kept locked when not in use.
- D. Buildings to be used in conjunction with livestock shall meet the applicable setbacks for the zone in which the property is located.
- E. Landlords shall ensure that their tenants comply with the terms of this section and shall not allow any violation of this section to persist. Following notice to the landlord at the address of record with the Harney County Assessor's Office, landlords shall be deemed responsible for continuing violations.
- F. Any livestock kept within the City without the required permits shall be in violation of this title, shall constitute a nuisance, and shall be immediately removed by the owner upon notice from the City. If the animals are not timely removed, the City may remove such animals and assess the costs to the property owner in the manner prescribed for abating nuisances.
- G. Should any complaint be presented to the Council charging any person with violating any provision of this section, the Council, after having given such person reasonable notice and opportunity to be heard, may cancel or suspend such permit, may impose fines, and may,

by resolution, declare such person permanently ineligible for keeping livestock within the City limits.

5. Subdivisions and Partitions.

- A.** Any partition or subdivision of lands holding a required livestock permit shall render the livestock permit(s) void upon the filing of the final plat.
- B.** Properties larger than two and one-half acres that are not required to have livestock permits may be partitioned or subdivided and, if the resulting lots or parcels are subject to livestock permitting, the owner may be issued livestock permits by the City Council upon an affirmative recommendation by the Planning Commission during the partition or subdivision review. The property owner shall make the request for livestock permits as part of its partition or subdivision application.

18.30.275 Temporary Uses

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, seasonal sales such as Christmas tree sales and vegetable stands, and similar uses. This Code contains permit procedures for three types of temporary uses, Seasonal and Special Events, Temporary Sales Offices and Model Homes, and Temporary Buildings, Trailers, Kiosks, and Other Structures, as follows:

- 1. Seasonal and Special Events.** Through a Noticed Type I procedure, pursuant to Section 18.20.015, the City shall approve, approve with conditions, or deny a temporary use application for a Seasonal or Special Event, based on the following criteria:
 - A.** The use is permitted in the underlying zone and does not violate any conditions of approval for the property (e.g., prior development permit approval).
 - B.** The use occurs only once in a calendar year and for not longer than 30 consecutive days.
 - C.** The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.
 - D.** Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to Section 18.50.200 Access and Circulation.
 - E.** The use does not conflict (i.e., create a nonconformity) with the provisions of Section 18.50.300 Landscaping, Fences, Walls, and Exterior Lighting.
 - F.** There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to Section 18.50.400 Parking and Loading.

- G. The use does not conflict (i.e., create a nonconformity) with the provisions of Section 18.40 Public Facility Standards and Criteria.
 - H. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.
 - I. The use is adequately served by sewer or septic system and water, as applicable.
 - J. The applicant shall be responsible for maintaining all required licenses and permits.
2. **Temporary Sales Office or Model Home.** Through a noticed Type I procedure, pursuant to Section 18.20.015, the City shall approve, approve with conditions, or deny a temporary use application for a Temporary Sales Office or Model Home, based on the following criteria:
- A. **Temporary sales office.** The use of any real property within the City as a temporary sales office for the purpose of facilitating the sale of real property, shall meet all the following criteria:
 - (1) The temporary sales office shall be located within the boundaries of the subdivision or tract of land within which the real property is to be sold.
 - (2) The property to be used for a temporary sales office shall not be permanently improved for that purpose, except for improvements that would otherwise be allowed in the applicable zoning district for uses that are outright permitted.
 - (3) Public health, safety, and welfare shall be protected through conditions imposed by the City, regarding temporary utility connections.
 - B. **Model house.** The use of any real property within the City for a model home, including a model home in any subdivision or on any tract of land within the City, shall meet all the following criteria:
 - (1) Where the model house is located in a Residential zone, it shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated.
 - (2) A model house located in a Residential zone shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements.
 - (3) A model house located in a non-Residential zone, as with a manufactured home sales display lot, shall be removed when the use of the subject site for home sales ends.

- 3. Temporary Buildings, Trailers, Kiosks, and Other Structures.** Through a noticed Type I procedure, pursuant to Section 18.20.015, the City shall approve, approve with conditions, or deny an application for a placement and use of a temporary building, trailer, kiosk, or other structure, based on following criteria:
- A.** The use is permitted in the underlying zone and does not violate any conditions of approval for the property (e.g., prior development permit approval).
 - B.** The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.
 - C.** The lot development standards of Section 18.50.100 are met.
 - D.** Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to Section 18.50.200 Access and Circulation.
 - E.** The use does not conflict (i.e., create a nonconformity) with the provisions of Section 18.50.300 Landscaping, Fences, Walls, and Exterior Lighting.
 - F.** There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to Section 18.50.400 Parking and Loading.
 - G.** The temporary use does not conflict (i.e., create a nonconformity) with the provisions of Section 18.40 Public Facility Standards and Criteria.
 - H.** The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.
 - I.** The use is adequately served by sewer or septic system and water, as applicable.
 - J.** The structure complies with applicable building codes.
 - K.** Except where specifically authorized by the City Council, the length of time that the temporary structure may remain on a site shall not exceed 2 consecutive months or a total of 3 months in any one calendar year.
 - L.** The applicant has obtained and will maintain all required licenses and permits.
 - M.** Public health, safety, and welfare are protected through the installation of a water meter, if necessary, and other improvements, pursuant to Section 18.40 Public Facility Standards and Criteria, as necessary.

18.30.280 Wireless Communication Facilities

1. **Purpose.** The purpose of these standards is to provide reasonable and necessary regulations for communications facilities in order to:
 - A. Implement an application process for the review and permitting of communications facilities.
 - B. Minimize the visual impacts of such communications facilities through careful design, siting, and screening.
 - C. Allow for the reasonable siting of communications facilities necessary to meet the functional requirements of the wireless and broadcast industries and the public and private utilities, including conformance with the guidelines and intent of federal law and the Telecommunications Act of 1996.
 - D. Provide for the reasonable siting of noncommercial transmitting and receiving antennas for the recreational benefits of the citizens.
 - E. Promote and encourage, whenever practicable and whenever possible, the sharing and/or collocation of communications facilities among service providers.
 - F. Promote and encourage, whenever possible, the placement, height and quantity of communications facilities in such a manner, including but not limited to the use of stealth technology and camouflage, to minimize adverse aesthetic and visual impacts on the land, property and buildings adjacent to, surrounding, and in generally the same area as the requested location of such facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
 - G. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of towers.
2. **Applicability.** This section applies to the development, siting, installation, and modification of all communications facilities, including but not limited to cellular telephone facilities, broadband internet facilities, and radio and TV broadcasting facilities. This section in no way prohibits, restricts, or impairs the installation, maintenance, or use of video antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations.
3. **Communications Facilities.** Communications facilities in compliance with the provisions of this title shall be allowed as a conditional use in all zones within the City of Burns except that new communications facilities are prohibited in all residential zones (SFR-4, SFR-7, MFR) and all Public Facility (PF) overlay zones abutting any residential zone unless the applicant can demonstrate one of the following in conjunction with any application for a new

communications facility proposed in any residential zone or Public Facility overlay zone adjacent to a residential zone:

- A. There are no other options under this title to provide coverage because the proposed communications facility would fill a significant gap in coverage and no alternative locations are available and technologically feasible.
- B. The proposed facility must be sited in a residential zone to prevent unreasonable discrimination in the application of this zoning title among providers of functionally equivalent services.
- C. The communications facility is proposed as a collocation on an alternative tower structure and the additional components are designed as a stealth facility.

4. Application Requirements. An applicant for a new communications facility shall submit the following information:

- A. A list of all property owners, including mailing address, tax map number and tax lot number, within 1,000 feet of the boundaries of the subject property. The subject property includes the boundary of the entire property on which the lease area of the communications facility lies. The list shall be compiled from the Harney County Tax Assessor's most recent property tax assessment roll.
- B. Demonstrate the need for the new communications facility and why alternative locations and design alternatives, such as the use of alternative technology, cannot be used to meet the identified service objectives, pursuant to subsection (3) of this section, unless the applicant demonstrates compliance with stealth design requirements on an existing communications facility or alternative tower structure as specified in subsection (5) of this section.
- C. A visual study containing, at a minimum, a vicinity map depicting where, within a half-mile radius, any portion of the proposed communications facility could be visible, and a photographic simulation showing the appearance of the proposed communications facility and accessory structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points shall be selected by the City. The applicant shall include a map showing where the photos were taken. The study shall show the maximum silhouette, view shed analysis, color and finish palette, and proposed screening for all components of the facility.
- D. Documentation of the steps that will be taken to minimize the visual impact of the proposed communications facility, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property and buildings adjacent to, surrounding, and in the general vicinity of the requested location of such communications facilities, using the least visually and physically intrusive communications facility that is not technologically or commercially impracticable under the facts and circumstances.

- E.** The applicant shall include an inventory of all existing communications facilities within the Burns City limits and the surrounding one-mile radius thereof, including ownership and information concerning the type of communications facility for each.
- F.** The applicant shall identify the geographic service area for the proposed communications facility, including a map showing all the applicant's existing sites in the local service network associated with the gap the communications facility is meant to close. The applicant shall describe how this service area fits into and is necessary for the service provider's service network.
- G.** If a new tower is proposed, a feasibility study for the collocation of the communications facility as an alternative to a new structure. The feasibility study shall include:
- (1)** Documentation of the efforts that have been made to collocate on existing or previously approved towers. Each applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form, and content of such contact.
 - (2)** Documentation as to why collocation on existing or proposed towers or location on an alternative tower structure is not practical or feasible. Collocation shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower or alternative tower structure. The City may consider expert testimony to determine whether the fee and costs are reasonable. Collocation costs exceeding new tower development are presumed to be unreasonable.
- H.** If a new tower is proposed, a report from a licensed engineer containing the following information:
- (1)** A description of the proposed tower height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design. A cross-section of the proposed tower structure shall be included. The engineer shall document that the design is sufficient for future collocation requirements.
 - (2)** The total anticipated capacity of the tower in terms of the number and types of antennas which can be accommodated. The engineer shall also describe any limitations on the ability of the tower to accommodate collocation. The engineer shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not used.
 - (3)** Documentation from a licensed professional engineer that the proposed tower will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the State Structural Specialty Code, latest adopted edition at the time of the application.

- I.** A written narrative that describes in detail all the equipment and components to be included in the facility, e.g., antenna(s) and arrays, equipment cabinet(s), back-up generator(s), air conditioning unit(s), lighting, fencing, etc.
- J.** Noise/Acoustical Information. Provide manufacturer's specifications for all noise generating equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.
- K.** A landscape plan drawn to scale that is consistent with the need for screening at the site. Existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.
- L.** Show the designated driveway and vehicular circulation pattern for maintenance vehicles and equipment.
- M.** Construction. Describe the anticipated construction techniques and time frame for construction or installation of the communications facilities. This narrative shall include all temporary staging and the type of vehicles and equipment to be used.
- N.** Lease. Provide a copy of the lease agreement with the property owner of the proposed site.
- O.** Lighting and Marking. Any proposed lighting and marking of the facility, including any required by the FAA.
- P.** FCC License. Provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed communications facility, including documentation showing that the applicant is in compliance, both cumulatively and individually, with all the FCC's RF emissions safety standards.
- Q.** A description of anticipated long-term maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.
- R.** A written document addressing how the project satisfies the general development standards listed in subsection (6) of this section, and the approval criteria listed in subsection (7)(B) of this section.
- S.** A facility maintenance plan indicating: the number of days; hours of the day; duration; type of vehicles and equipment that will be utilized; and, the anticipated noise, dust, and glare that will be associated with regular maintenance of the communications facility to ensure normal operation. Regular maintenance to ensure normal operation shall only occur between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday (Sunday not permitted). Notwithstanding these restrictions, regular maintenance does not include unanticipated emergency situations of communications facility failure outside of normal communications facility maintenance hours specified herein and/or indicated in the communications facility maintenance plan.

- T. The materials required by subsection (12) of this section.
 - U. The City may request any other information deemed necessary to fully evaluate and review the application and the potential impact of a proposed communications facility.
5. **Collocation.** Communications facility towers shall be designed to accommodate collocation of additional provider's antennas.
- A. All communications facility towers over 50 feet in height shall be designed to accommodate collocation of additional antennas/antennas arrays.
 - B. At least one future antenna/antennas arrays must be accommodated on any tower over 50 feet in height with accommodation for at least one additional future antenna/antennas array for each additional 25 feet in height above 50 feet.
 - C. All collocated communications facilities shall be designed in such a way as to be visually compatible with the tower structures on which they are placed.
 - D. All accessory equipment shall be located within the existing enclosure, shall not result in any exterior changes to the enclosure and, in residential and Public Facility zones adjacent to a residential zone, shall not include any additional above grade equipment structures.
 - E. Collocation on an alternative tower structure in a Residential or Public Facility zone adjacent to a Residential zone shall require a stealth design.
6. **General Development Standards.** All new communications facilities shall be found to comply with the following standards:
- A. **Visual Impact.**
 - (1) **Tower Height.** The maximum tower height shall not exceed 150 feet, as measured from the ground elevation to the highest point of the tower or any attachment thereto, except that in residential and Public Facility zones adjacent to a residential zone, no portion of the communications facility shall exceed 50 feet in height, except where such communications facility is sited on an alternative tower structure. This exemption notwithstanding, the height and mass of the transmission tower shall be the minimum which is necessary for its intended use, as demonstrated in a report prepared by a licensed professional engineer. A communications facility that is attached to an alternative tower structure shall not exceed the height of the alternative tower structure by more than 10 feet, except that for location or collocation on alternative tower structures in residential or Public Facility overlay zones adjacent to a residential zone, no increase in height shall be allowed.
 - (2) **Visual Impact.** The applicant shall demonstrate that the tower can be expected to have the least visual impact on the environment, taking into consideration technical, engineering, economic and other pertinent factors. The blocking or impairing of

views from other properties shall be taken into consideration in the siting of a tower, and it shall be demonstrated that no other practicable alternative exists. The siting shall be made to minimize the effect on all view corridors, including reducing the height to only that which is needed to provide service. Towers clustered on the same site shall be of similar height and design, whenever possible, unless an existing tower does not conform with the standards included in this section, in which case the standards of this section shall apply to the new tower.

(3) Paint and Finish.

(a) A camouflage or stealth design that blends with the surrounding area shall be utilized for communications facilities unless an alternative design is approved during the land use review process. If an alternative design is approved, all towers, antennas and associated equipment shall be painted a nonreflective, neutral color as approved through the review process. Communications facilities attached to structures shall be painted so as to be identical to or compatible with the existing structure.

(b) Where ancillary facilities are allowed under this zoning title to be visible, they shall be colored or surfaced so as to blend the facilities with the surrounding natural and built environment, and where mounted on the ground shall be otherwise screened from public view or placed underground.

(4) If approved in a residential or Public Facility overlay zone adjacent to a residential zone, all equipment and ancillary facilities necessary for the operation of and constructed as part of a communications facility shall be placed within an underground vault specific to the purpose. For communications facilities required to be approved as stealth facilities, no fencing around the communications facilities shall be allowed.

(5) Unenclosed storage of materials is prohibited.

(6) Other building facilities, including offices, vehicle storage areas or other similar uses not necessary for transmission or relay functions, are prohibited in residential or Public Facility zones adjacent to a residential zone.

(7) Stealth design shall be required for location or collocation on alternative tower structures in all residential and Public Facility overlay zones adjacent to a residential zone.

B. Site Size.

(1) The site on which a transmission tower is located shall be of a sufficient shape and size to provide adequate setbacks as specified below.

- (2) Wherever possible, tower sites shall be large enough and structurally sufficient to allow for additional collocated and ancillary facilities, unless a finding is made by the City as part of the land use review process that the tower will not accommodate future collocation when considering requirements for visual screening. This standard shall not apply to antennas attached to existing structures or towers located on rooftops.

C. Setbacks and Separation.

- (1) **Setbacks.** The following setbacks from adjacent property lines, dwellings, streets, and zone boundaries are required:

- (a) Except where attached to a structure or building, all towers shall be set back from all buildings, structures, property lines and public streets by a distance equal to or greater than the height of the tower.
- (b) Except where permitted in a residential zone or Public Facility overlay zone adjacent to a residential zone, all towers shall be set back from a residential or Public Facility overlay zone adjacent to a Residential zone boundary by a distance equal to or greater than 500 feet.
- (c) Should the use of concealment technology be implemented, or if the communications facility is integrated into an existing or proposed structure, such as church steeple, electrical transmission tower, or other structure, the Planning Commission may reduce or waive the setback requirements.
- (d) Towers are prohibited in the required front yard, back yard, or side yard setback of any lot in any zone.

- (2) **Separation.**

- (a) Freestanding communications facilities located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of 20 percent of the tower height or 25 feet, unless during the permit review process this requirement is specifically waived by the Planning Commission for purposes of mitigating visual impacts or improving compatibility with other uses on the property.
- (b) Towers and antennas that are mounted on alternative tower structures shall be exempt from these minimum separation and setback requirements. However, communications facilities and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties.

- D. **Lighting.** No lighting shall be permitted on transmission towers except that required by the Oregon State Aeronautics Division or the Federal Aviation Administration.

- E. Signs.** All signs are prohibited on communications facilities, except for nonilluminated signage, not to exceed two square feet, which shall be provided at the main entrance to the communications facility stating owner's name and address, and a contact name and phone number for emergency purposes or any other warning and safety signage. No more than two signs are permitted unless required by law.
- F. Security.** All communications facilities, other than those located or collocated on an alternative tower structure or otherwise required to be built as a stealth design, shall be enclosed by a decay-resistant security fence six feet in height or as conditionally required. Fencing shall be compatible with other nearby fencing. Such requirements may be waived for attached communications facilities.
- G. Landscaping.** Landscaping shall be placed around the outside perimeter of the security fencing and shall consist of fast growing vegetation that can be expected to reach a minimum height of six feet and form a continuous hedge within two years of planting. Drought tolerant landscaping materials shall be required, and applicant shall maintain a watering regimen until it is no longer necessary to ensure the continued survival of the landscaping. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height and would not affect the stability of the guys should they be uprooted. Landscaping shall be compatible with other nearby landscaping. Continued maintenance of all landscaping is required and deemed the applicant's responsibility and any approval shall be so conditioned.
- H. Conflict with Planned Right-of-Way.** No communications facility shall be located within a planned or existing public right-of-way, unless it is specifically designed for the purpose in a way that will not impede pedestrian or vehicular traffic.
- I. A paved access driveway a minimum of 26 feet in width and a paved vehicular circulation area suitable to accommodate anticipated service vehicles and turnaround shall be provided between the public right-of-way and the communications facility site. Communications facilities approved in industrial zones may have unpaved driveways and vehicular circulation areas.**
- J. Preexisting Towers/Nonconforming Use.** In order to encourage the collocation of antennas on existing towers, all communications facilities lawfully approved and operative prior to the adoption date of the ordinance codified in this title shall be allowed to continue in use without being considered to be nonconforming uses. Any changes, modifications or replacement to/of an existing tower, or alternative tower structure, other than routine maintenance, shall comply with the requirements of this section.
- K. Speculation Tower.** No application shall be accepted or approved for a tower, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the tower.
- L. If the City of Burns approves a new tower, the owner of the tower shall, as conditions of approval, be required to:**

- (1) Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;
- (2) Negotiate in good faith with any potential user for shared use of space on the tower;
- (3) The above conditions, and any others required by the City, shall run with the land, and be binding on subsequent purchasers of the tower site and/or improvement; and
- (4) A person/entity who/which deems himself/herself/itself aggrieved by the failure of a tower owner to respond in a timely and comprehensive manner or negotiate in good faith for shared use of a tower approved by the City under this title or any previous iteration of this title shall have a private right of action for damages for injury sustained by the party which was caused by the failure of the owner of the tower to so respond or negotiate in good faith as required by this section. In the resulting private litigation/mediation/arbitration, the prevailing party shall be entitled to have his/her/its reasonable attorney fees paid by the non-prevailing party at the trial level and upon appeal.

7. Review Process and Approval Criteria. The following procedures shall be applicable to all new communications facility applications as specified in this section:

- A. All new communications facilities shall be reviewed as a conditional use decision. Applications for new communications facilities shall be processed in accordance with the provisions of Section 18.20.300.
- B. Approval Criteria. In addition to the requirements for conditional use approval, the City shall approve the application for a communications facility on the basis that the proposal complies with the general development standards listed in subsection (6) of this section, and upon a determination that the following criteria are met:
 - (1) The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives;
 - (2) The location, size, design, and operating characteristics of the proposed communications facility will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
 - (a) Scale, bulk, coverage and density;
 - (b) The harmful effect, if any, upon neighboring properties;
 - (c) The suitability of the site for the type and intensity of the proposed facility; and
 - (d) Any other relevant impact of the proposed use in the setting where it is proposed (i.e., noise, glare, traffic, etc.).

- (3) All required public facilities and services have adequate capacity as determined by the City, to serve the proposed communications facility.
- C. The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards. If compliance with all of the applicable approval criteria cannot be achieved through the imposition of reasonable conditions, the application shall be denied.
- D. Notwithstanding any other provisions of this title, the Burns City Council may establish fees in amounts sufficient to recover all the City's costs in reviewing applications filed pursuant to this section, including retaining independent telecommunication or other professional consultants as may be necessary to review and evaluate any evidence offered as part of an application. Such fees may be imposed during the review of an application as deemed appropriate by the City Planning Department.
- 8. Exemptions.** The following shall be considered exempt structures or activities under this section:
- A. Whip or other similar antennas no taller than six feet.
- B. Residential-Scale Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone category.
- C. Low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public rights-of-way. Low-powered networked telecommunications facilities shall comply with this section.
- D. All military, federal, state, and local government communications facilities except for towers in residential zones.
- E. Cell on wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 14 days, or during a period of emergency as declared by the City, county, or state.
- F. Replacement antennas and/or equipment, provided the replacement antennas and/or equipment have a function similar to the replaced antenna and/or equipment and do not exceed the overall size of the original antenna and/or equipment.
- G. Amateur radio stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.
- 9. Maintenance.** The following maintenance requirements apply to all communications facilities and shall be required as conditions of approval, where applicable:

- A. All landscaping shall be maintained at all times and shall be promptly replaced if not successful.
- B. If a flagpole is used for camouflaging a facility, flags must be flown and must be properly maintained at all times.
- C. All communications facility sites shall be kept clean, free of litter and noxious weeds.
- D. All communications facility sites shall maintain compliance with current RF emission standards of the FCC, the National Electrical Safety Code, and all state and local regulations.
- E. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.
- F. The owner/operator of the facility shall submit a yearly maintenance report to the Planning Commission Secretary indicating that all statements of operation as specified in the land use application, including the communications facility maintenance plan required by subsection (4)(S) of this section, and all conditions of approval are being complied with and met.

10. Eligible Modifications.

- A. Requests to modify a communications facility, including adding additional antennas, alterations to accessory buildings, cabinets, and other infrastructure in a manner that will not substantially change the physical dimensions of the tower shall be considered an "eligible modification."
- B. For purposes of this section, "substantial change" shall mean:
 - (1) A proposed modification that would increase the existing height of the communications facility by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater (may exceed these size limits if necessary to avoid interference with existing antennas);
 - (2) A proposed modification that would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
 - (3) A proposed modification that would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (may exceed these size limits if necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable); or

(4) A proposed modification that would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

C. The City may impose any reasonable condition(s) deemed necessary to achieve compliance with the approval standards except that the City may not place any condition on the tower supporting the eligible modification (i.e., relocation, additional camouflaging, etc.).

D. Eligible Modification Application Requirements.

(1) Any proposal for an eligible modification shall require the submittal requirements as an application for a new communications facility to the extent applicable as determined by City staff.

(2) An application for an eligible modification shall be reviewed to determine whether the proposal constitutes an eligible modification, and that the eligible modification would not violate any applicable objective setback or height requirement otherwise established by this section.

(3) Nothing herein is intended or shall operate to waive or limit the City's right to enforce, or condition approval on, compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

11. Other Modifications. All modifications other than eligible modifications shall be processed as a conditional use approval with the same submittal requirements and evaluation criteria as a new communications facility except that only the criteria applicable to the proposed modification shall be evaluated.

12. Abandoned Facilities.

A. All operators who intend to abandon or discontinue the use of any communications facility shall notify the City of such intentions no less than 60 days prior to the final day of use.

B. Communications facilities shall be considered abandoned 90 days following the final day of use or operation.

C. All abandoned communications facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the communications facility has been abandoned, whichever occurs first.

D. In the event that an owner discontinues use of a communications facility for more than 90 days, the City may declare the communications facility abandoned and require the property owner to remove it. An abandoned communications facility may be declared a nuisance subject to the abatement procedures in Section 8.10. Delay by the City in taking action shall not in any way waive the City's right to take action. Upon written application prior to

the expiration of the 90-day period, the City Manager or their designee may grant a six-month extension for reuse of the communications facility. Additional extensions beyond the first six-month extension may be granted by the City subject to any conditions required to bring the project into compliance with current law(s) and make it compatible with surrounding development.

- E. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good condition may remain.
- F. As a condition of approval for a new communications facility, the applicant shall submit a cash deposit or equivalent surety to be held by the City as security for abatement of the communications facility as specified herein. The security shall be equal to 120 percent of the estimated cost for removal of the communications facility and restoration of the site. Cost estimates for the removal shall be provided by the applicant based on an independent, qualified engineer's analysis and shall be verified by the City. Upon completion of the abandonment of the communications facility by the applicant as specified by this section, and inspection by the City, the entirety of the cash deposit/other surety shall be returned to the applicant.
- G. The applicant for a new communications facility shall provide an affidavit, signed by the property owner, indicating that the owner has read, and understands, subsections (12)(A) through (E) of this section.

18.30.285 Night Watchman Quarters.

- 1. A manufactured dwelling, provided it meets City and State standards for safety and construction, may be used as a permanent residence for employees of businesses or property owners in the General Commercial (GC), Business Park (BP), and Industrial (I) zoning districts when their presence is required for security purposes by the employer 24 hours a day; provided the following standards are met.
 - A. A permanent foundation shall be provided for the manufactured dwelling unless it will be used for less than 120 days.
 - B. The manufactured dwelling shall be removed from the premises within 30 days if the business requiring security personnel or the property owner ceases operation.
 - C. The manufactured dwelling shall meet the Placement and Flood Hazard Area standards of Section 18.30.260.

18.30.290 Short-Term Dwelling Rental in Residential Zones.

- 1. No more than one short-term dwelling rental may be located on any one city block within a residential zone.
- 2. A City of Burns business license is required for the operation of a short-term dwelling rental.

3. Owners of short-term dwelling rentals are also subject to any additional regulations, fees, and taxes that may be adopted by the City of Burns related to Short-Term Dwelling Rentals. Please contact the City Clerk for any such requirements.

18.30.295 Recreational Vehicle Park.

A recreational vehicle park shall be built to State standards in effect at the time of construction and shall comply with the following provisions:

1. Use Standards.

- A. The minimum size for any new recreational vehicle park shall not less than four net acres.
- B. No recreational vehicle park or overnight use area shall be permitted with access from any unpaved street and the primary route from the nearest arterial or collector street shall be paved for its entire length.
- C. The design of recreational vehicle parks shall be subject to site plan review approval and criteria.
- D. Management headquarters, recreational facilities, swimming pools, common restrooms, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of a recreational vehicle park are permitted as accessory uses to the park.

2. Design Standards.

- A. The maximum density of an RV park shall be 12 spaces per acre.
- B. Adequate emergency vehicle access shall be assured and circulation through the RV park shall be convenient and efficient for the largest RVs the park is intended to serve; intended RV size shall be based on the length of the longest RV spaces within the park.
- C. All on-site circulation shall be paved with asphalt, concrete, or similar impervious surface, and designed to permit easy access to each recreational vehicle space.
- D. Entrance driveways shall be located not closer than 150 feet from the intersection of public streets.
- E. A space provided for a recreational vehicle shall be covered with dust free crushed gravel, or paved with asphalt, concrete or similar materials, and be designed to provide runoff of surface water. The portion of the space not occupied by a recreational vehicle and not intended as an access way to the recreational vehicle or part of an outdoor patio need not be paved or covered with gravel, provided the area is landscaped or otherwise treated to prevent dust or mud.

- F. Each recreational vehicle space shall be provided with piped, potable water and sewage disposal service, and electrical power.
- G. Trash receptacles for the disposal of solid waste material shall be provided in convenient locations for the use of guests of the park and shall be of such capacity and number so that there is no accumulation of uncovered trash at any time. Trash shall be removed from the property on a scheduled basis to prevent health hazard or nuisance.
- H. Occupancy or placement extending beyond 30 days in any 12-month period shall be presumed to be permanent occupancy and is not permitted in an RV park. The City Council may permit a longer occupancy or placement for an entire RV park for construction workers for a specific construction project; the Council shall issue a resolution identifying the construction project and shall specify in the resolution the time period under which the standard limitations for occupancy or placement may be extended.
- I. Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair is prohibited.
- J. The total number of personal vehicle parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park, shall be equal to one space per recreational vehicle space. Personal vehicle parking spaces shall be covered with crushed gravel, or paved with asphalt, concrete, or similar material, providing a dust-free surface.
- K. The recreational vehicle park shall provide common use restroom facilities that include toilets, lavatories and showers for each sex as required by the State Building Agency Administrative Rules, Chapter 918. Such facilities shall be lighted at all times of night and day, shall be ventilated, and shall be provided with adequate floor drains to permit easy cleaning.
- L. Recreational vehicles shall be separated from each other and from other structures by at least 8 feet. Accessory structures such as attached awnings or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the recreational vehicle.
- M. The recreational vehicle park shall be enclosed by a fence, wall, landscape screening, earth mounds, or by other designs which will complement the landscape and assure compatibility with surrounding properties.

18.30.300 Overlay Zones.

Overlay zones function to provide additional or alternative use or development standards within the overlay.

18.30.310 Purpose.

The purpose of overlay zones is to have a zoning map and corresponding development code that reflects unique conditions or planning objectives in specific geographies that work with the base zone that otherwise applies to the area.

18.30.315 Applicability.

Overlay zones are those zones depicted on the Official Zoning Map of the City of Burns. Areas within the overlay zone are subject to the regulations of the overlay zone which are additive to the base zoning district regulations, except where the overlay zone language specifically states where the overlay zone is intended to exempt certain requirements or establish alternative requirements to the base zone.

18.30.320 Public Facilities (PF) Overlay.

1. Purpose.

To provide a zoning overlay for government, public utility, and quasi-public uses which can be held or developed by public agencies, utilities, and non-profit entities; and to assure that such public facility development occurs in a manner compatible with surrounding uses while ensuring needed public and quasi-public uses and utilities are provided within the City of Burns.

2. Zoning Criteria.

- A.** The land where the PF overlay is located must be owned by a government, or utility, or non-profit, or be under contract for purchase by such entity. In the contract for purchase case, the effective date set forth in the zoning overlay action shall be fifteen days after the entity closes on the purchase contract.
- B.** The approving authority for a new PF overlay request shall conclude the proposed overlay area is appropriate in size and location for the contemplated use; the applicant shall set forth the contemplated use within the overlay.
- C.** The approving authority for a new PF overlay request shall conclude that any potential adverse impacts on surrounding properties are outweighed by the public benefit expected to accrue from the zoning overlay application to serve the contemplated uses.

3. Uses Permitted Outright.

In a PF overlay zone uses which might otherwise be disallowed or require a conditional use permit are considered permitted uses subject to compliance with this overlay. Within a PF overlay, uses listed in the use Section 18.30.130 Use Table as Public / Community / Institutional Uses that existed on the date of adoption of this ordinance and uses reasonably related to that use are considered permitted uses. For new PF overlay zoning districts, the contemplated use for the PF

overlay and uses reasonably related to that use are considered permitted uses. All other uses permitted in the underlying zone shall continue to be authorized.

4. Limitations on Uses.

All public facility and service uses in a PF zone shall be subject to the site design review requirements of Section 18.30.200. No additional limitations shall apply to uses permitted in the underlying zone other than those specifically applicable to said zone.

5. Dimensional Standards.

In a PF zone, the dimensional standards of the CG zone in Table 18.50.100.4 shall apply for public facility and services uses. The dimensional standards for the underlying zone shall apply to all other uses.

6. Parking.

In a PF zone, the off-street parking and loading requirements of Section 18.50.400 shall apply to public facilities and services. The parking requirements of the underlying zone shall apply to all other uses.

7. Site Plan Review.

In a PF zone, a site design review pursuant to Section 18.20.200 shall be required prior to issuance of any building permit for improvement, expansion, or construction of permitted uses in said zones.

18.30.325 Flood Hazard Area

1. Purpose. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A.** To protect human life and health;
- B.** To minimize expenditure of public money and costly flood control projects;
- C.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D.** To minimize prolonged business interruptions;
- E.** To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F.** To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

2. Definitions Specific to the City of Burns Flood Hazard Regulations. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage. The defined terms below are specific to administration of the City of Burns flood hazard regulations. The definitions in this section do not apply generally to the balance of the City of Burns Zoning Ordinance.

“Area of shallow flooding” means a designated Zone AO, AH, AR/AO or AR/AH on a community’s flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of special flood hazard” means the land in the floodplain area within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the flood insurance rate map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard.”

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Base flood elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

“Development” means a building or mining operation, making a material change in the use or appearance of a structure or land, dividing land into two or more parcels, including partitions and subdivisions as provided in ORS 92.010 to 92.285, and creating or terminating a right of access. “Development” also means any manmade change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

“Elevated building” means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Flood” or “flooding” means:

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (A)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (A)(1) of this definition.

Flood Elevation Study. See “flood insurance study (FIS).”

“Flood insurance rate map (FIRM)” means the official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

“Flood insurance study (FIS)” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“Floodplain variance” means a grant of relief by the City of Burns from the terms of a floodplain area management regulation.

“Floodplain violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain area management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this section is presumed to be in violation until such time as that documentation is provided.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as “regulatory floodway.”

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.
- E. A structure designated as a historic structure in the City of Burns Comprehensive Plan, pursuant to Statewide Planning Goal 5.

“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 section.

“Manufactured dwelling” 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 attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle” and is synonymous with “manufactured home.”

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s flood insurance rate map are referenced.

Special Flood Hazard Area. See “area of special flood hazard” for this definition.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

3. General Provisions.

A. Lands to Which the City of Burns Floodplain Area Ordinance Applies. This section shall apply to all special flood hazard areas within the jurisdiction of the City of Burns.

B. Basis for Establishing the Special Flood Hazard Areas. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Harney County, Oregon and Incorporated Areas,” dated April 20, 2022, with accompanying Flood Insurance Rate Maps (FIRMs) 41025CIND1A, 41025CIND2A, 41025C1402E, 41025C1404E, 41025C1406E, and 41025C1408E, are hereby adopted by reference and declared to be a part of this section. The FIS and FIRM panels are on file at the Planning and Zoning Department located in City Hall.

4. Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Burns administers and enforces the State of Oregon Specialty Codes, the City of Burns does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

5. Abrogation and Severability.

A. This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

B. This section and the various parts thereof are hereby declared to be severable. If any section, clause, sentence, or phrase of this section is held to be invalid or unconstitutional

by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this section.

6. **Warning and Disclaimer of Liability.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section 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 section shall not create liability on the part of the City of Burns, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

7. **Administration.** The City Manager (or their designee) is appointed to administer, implement, and enforce the City of Burns flood hazard regulations by granting or denying development permits in accordance with its provisions. The administrative duties, responsibilities, and requirements have been adopted by City resolution, which may be amended from time to time, and is hereby incorporated by reference.
8. **Establishment of Development Permit.** A floodplain development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in subsection (3)(B) of this section. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in subsection (2) of this section, including fill and other development activities.
9. **Application for Floodplain Development Permit.** Application for a development permit shall be made on forms furnished by the Floodplain Administrator. The application requires reproducible site plan(s) drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing along with any other information required by the City of Burns development ordinance for the relevant land use application. The site plan(s) shall be prepared and sealed by an Oregon registered professional engineer or Oregon registered professional land surveyor. Specifically, at least the following information is required:
 - A. The applicant shall provide a site plan that depicts proposed elevation (in relation to mean sea level) of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures.
 - B. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
 - C. Certification by a registered professional engineer or architect licensed in the state of Oregon that the floodproofing methods proposed for any nonresidential structure meet the floodproofing criteria for nonresidential structures in subsection (15)(C)(3) of this section.

- D. Description of the extent to which any watercourse will be altered or relocated.
- E. Base flood elevation data for subdivision proposals or other development when required per subsection (14)(F) of this section.
- F. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- G. The amount and location of any fill or excavation activities proposed.
- H. For development proposed in mapped floodplains without established base flood elevations, the applicant shall provide a report from an Oregon registered professional engineer that calculates the base flood elevation based upon methodologies consistent with FEMA guidance.

10. Floodplain Area Development Permit Criteria. Floodplain development permits shall be approved for permitted uses in the applicable zone for the requested floodplain development permit if all applicable criteria in this section is satisfied. Floodplain development permits may be approved for conditional uses in the applicable zone for the requested floodplain development permit if all applicable criteria in this section is satisfied.

- A. The application includes all required site plan, survey and engineering information required by subsection (9) of this section; and
- B. The application includes evidence and findings that demonstrate the proposed development complies with all applicable floodplain development standards; or
- C. The application includes evidence and findings demonstrating how the proposed development can be found to satisfy the floodplain development permit variance criteria and the approving authority for the application concludes the below floodplain development permit variance criteria are satisfied.

In addition to satisfaction of the above criteria, the City of Burns may impose conditions of approval to assure applicable floodplain development permit standards and criteria will be satisfied by the proposed development. The City may also impose conditions of approval requiring the applicant to furnish documentation as part of the development process to satisfy the City's floodplain administration responsibilities.

11. Floodplain Variance Procedure. The issuance of a variance is for floodplain development permit purposes only and it is the only applicable variance criteria for floodplain development permit variance. The criteria for floodplain development permit variance are limited to the extent of the requested variance related to floodplain development permit regulations only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

12. Floodplain Development Permit Variance Criteria. Generally, variances 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 provisions of subsections (12)(B), (12)(D) and (13) of this section. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

- A. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- B. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (3) A determination 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 laws or ordinances.
- D. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that the criteria of subsections (12)(A) through (12)(C) of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

13. Floodplain Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance, shall be maintained by the Floodplain Administrator.

14. Provisions for Flood Hazard Reduction. In all special flood hazard areas, the following standards shall be adhered to:

- A. Alteration of Watercourses. The applicant shall provide detailed study and site plan that extends above and below the project area that demonstrates the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. This study shall be prepared by an Oregon registered professional engineer and shall document consistency

with applicable FEMA guidance for analyzing the flood carrying capacity based upon the scope and extent of the project. The study shall recommend maintenance best practices within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished.

B. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All manufactured dwellings shall be anchored per subsection (15)(C)(4) of this section.

C. Construction Materials and Methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

D. Utilities and Equipment.

(1) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(2) Electrical, Mechanical, Plumbing, and Other Equipment.

- (a) Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated above the base flood level one foot or more, or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section if replaced as part of a substantial improvement.

E. Tanks.

- (1) Underground tanks shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
- (2) Above-ground tanks shall be installed above the base flood level one foot or more, or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

F. Subdivision Proposals and Other Proposed Developments. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals base flood elevation data for each parcel proposed for development.

G. Use of Other Base Flood Elevation Data. When base flood elevation data has not been provided in accordance with subsection (3) of this section, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer this subsection (14). All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of subsection (14)(F) of this section.

Base flood elevations shall be determined for development proposals that are five acres or more in size or are 50 lots or more, whichever is lesser, in any A Zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided base level engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

H. Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

- (1) When a structure is located in multiple flood zones on the City of Burns' flood insurance rate maps (FIRMs) the provisions for the more restrictive flood zone shall apply.
- (2) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

15. Specific Standards for Riverine Flood Zones. These specific standards shall apply to all new construction and substantial improvements in addition to the general standards contained in subsection (14) of this section.

A. Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the base flood elevation, including crawl spaces, shall:

- (1) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- (2) Be used solely for parking, storage, or building access;
- (3) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - (a) A minimum of two openings.
 - (b) The total net area of nonengineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.
 - (c) The bottom of all openings shall be no higher than one foot above grade.
 - (d) Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
 - (e) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

B. Garages.

- (1) Attached garages may be constructed with the garage floor slab below the base flood elevation (BFE) in riverine flood zones, if the following requirements are met:
 - (a) If located within a floodway the proposed garage must comply with the requirements of subsection (16) of this section;
 - (b) The floors are at or above grade on not less than one side;
 - (c) The garage is used solely for parking, building access, and/or storage;
 - (d) The garage is constructed with flood openings in compliance with subsection (15)(A) of this section to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;

- (e) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - (f) The garage is constructed in compliance with the standards in subsection (14) of this section; and
 - (g) The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- (2) Detached garages must be constructed in compliance with the standards for appurtenant structures in subsection (15)(C)(6) of this section or nonresidential structures in subsection (15)(C)(3) of this section depending on the square footage of the garage.
- C. Special Flood Hazard Areas With Base Flood Elevations. In addition to the general standards listed in subsection (14) of this section, the following specific standards shall apply in special flood hazard areas with base flood elevations (BFE): Zones A1-A30, AH, and AE.
- (1) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's flood insurance rate map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 - (2) Residential Construction. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in subsection (15)(A) of this section.
 - (3) Nonresidential Construction. New construction, conversion to, and substantial improvement of any commercial, industrial, or other nonresidential structure shall:
 - (a) Have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE); or, together with attendant utility and sanitary facilities:
 - (1) Be floodproofed 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 design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the Floodplain Administrator as set forth subsection (7) of this section.
- (b)** Nonresidential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in subsection (15)(A) of this section.
- (c)** Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).
- (4) Manufactured Dwellings.**
- (a)** Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with subsection (15)(A) of this section;
- (b)** The bottom of the longitudinal chassis frame beam shall be at or above base flood elevation;
- (c)** Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and
- (d)** Electrical crossover connections shall be a minimum of 12 inches above base flood elevation (BFE).
- (5) Recreational Vehicles.** Recreational vehicles placed on sites are required to:
- (a)** Be on the site for fewer than 180 consecutive days; and
- (b)** Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c)** Meet the requirements of subsection (15)(C)(4) of this section, including the anchoring and elevation requirements for manufactured dwellings.

- (6) Appurtenant (Accessory) Structures. Relief from elevation or floodproofing requirements for residential and nonresidential structures in riverine (noncoastal) flood zones may be granted for appurtenant structures that meet the following requirements:
- (a) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in subsection (16) of this section;
 - (b) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
 - (c) In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one- story structures less than 200 square feet, or 400 square feet if the property is greater than two acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as nonresidential are limited in size to 120 square feet;
 - (d) The portions of the appurtenant structure located below the base flood elevation must be built using flood resistant materials;
 - (e) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
 - (f) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in subsection (15)(A) of this section;
 - (g) Appurtenant structures shall be located and constructed to have low damage potential;
 - (h) Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with subsection (14)(E) of this section;
 - (i) Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

16. Floodways. Located within the special flood hazard areas established in subsection (3) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

(1) Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

(2) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations; provided, that a conditional letter of map revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, Section 65.12, are fulfilled.

B. If the requirements of subsection (16)(A) of this section are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of subsection (14) of this section.

17. Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO Zones with depth designations or as AH Zones with base flood elevations. For AO Zones the base flood depths range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH Zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

18. Standards for AH Zones. Development within AH Zones must comply with the standards in subsections (14), (15), and (17) of this section.

19. Standards for AO Zones. In AO Zones, the following provisions apply in addition to the requirements in subsections (14) and (17) of this section:

A. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO Zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum one foot or more above the depth number specified on the flood insurance rate maps (FIRMs) (at least two feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

B. New construction, conversion to, and substantial improvements of nonresidential structures within AO Zones shall either:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum one foot or more above the depth number specified on

the flood insurance rate maps (FIRMs) (at least two feet if no depth number is specified); or

- (2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRMs (or a minimum of two feet above the highest adjacent grade if no depth number is specified), so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in subsection (15)(C)(3)(a)(3) of this section.

C. Recreational vehicles placed on sites within AO Zones on the community's flood insurance rate maps (FIRMs) shall either:

- (1) Be on the site for fewer than 180 consecutive days; and

- (a) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

- (b) Meet the elevation requirements of subsection (19)(A) of this section, and the anchoring and other requirements for manufactured dwellings of subsection (15)(C)(4) of this section.

D. In AO Zones, new and substantially improved appurtenant structures must comply with the standards in subsection (15)(C)(6) of this section.

E. In AO Zones, enclosed areas beneath elevated structures shall comply with the requirements in subsection (15)(A) of this section.

18.30.330 Step Slopes.

1. Building permit applications for structures to be located on slopes of 25 percent or greater shall include certification from a registered professional engineer or architect that said structure is to be designed and constructed in a manner which does not materially jeopardize the physical integrity of the slope, or the safety of the structure or surrounding properties.
2. Land development applications which include areas of slopes greater than 25 percent shall delineate such areas on tentative plan maps and configure lots in such a way as to provide building sites on slopes of less than 25 percent to the greatest extent practicable.
3. Land development applications which include slopes of 25 percent or greater shall include certification by a registered professional engineer that required public facilities and services for the development can be designed and constructed over or adjacent to such slopes, without materially jeopardizing the public safety and continued integrity of such facilities and services.

18.30.335 Silvies River Natural Area.

Within the Silvies River floodway, as designated in Section 7 of the Comprehensive Plan, the Commission or Council shall not take final action on any zone change, conditional use permit, land development, or annexation, unless and until written or oral testimony from state or federal wildlife officials has been requested and entered into the record, as to the probable impact to the Silvies River natural area from the proposed land use action. Lack of response from said officials within 10 days from the date of notice shall be construed as meaning that no significant adverse impacts will occur to the natural area from said proposal.

18.30.340 Downtown Commercial Core.

- 1. Purpose.** To provide a zoning overlay for properties located within the area designated on the City of Burns zoning map as the Downtown Commercial Core area, which is defined as the commercially zoned lands two blocks on either side of Broadway from Jackson Street to “D” Street.
- 2. Uses Permitted Outright.** Within the Downtown Commercial Core overlay, uses listed in Table 18.30.130 as being permitted in the General Commercial (GC) zone are permitted within the Downtown Commercial Core, subject to additional standards in this section and where specified in the code.
- 3. Site Design Review.** All new development within the Downtown Commercial Core Overlay is subject to Site Design Review pursuant to Section 18.20.200 and using the Type III procedures in Section 18.20.025.
- 4. Development Standards.** Except as specified in this section or where the Downtown Commercial Core overlay requirements are specifically referenced elsewhere in the code, all properties within the Downtown Commercial Core overlay are subject to the development standards of the underlying zoning district as specified in Section 18.50.
- 5. Parking.** No additional off-street parking is required for uses within the Downtown Commercial Core.
- 6. Limitations on Uses.** The following limitations shall apply to uses permitted in the underlying zoning district.
 - A. Drive-Throughs.** The installation of new drive-through facilities may only be allowed for the following uses and are subject to conditional use permit approval pursuant to Section 18.20.300 prior to issuance of any building permits for construction.
 - (1)** Financial Services where in conjunction with at least 1,000 square feet of indoor customer service space.
 - (2)** Pharmacies where in conjunction with at least 3,000 square feet of indoor retail space.

- (3) Eating and drinking establishments where in conjunction with at least 1,500 square feet of indoor dining area.

B. Retail Sales.

- (1) Retail sales with Greater Than 30% of Site Area for Outdoor Sales & Storage are prohibited. Outdoor dining areas are not counted as outdoor sales areas under this standard.

C. Vehicle Fueling Stations.

- (1) Vehicle fueling stations are prohibited.

18.30.345 Historic Landmarks???

Planning Commission Hearing
DRAFT
6/14/2023

18.40 PUBLIC FACILITY STANDARDS AND CRITERIA

18.40.010 Purpose and Applicability

1. **Purpose.** The standards of Section 18.40 implement the public facility policies of the City of Burns Comprehensive Plan and adopted City master plans.
2. **Applicability.** Section 18.40 applies to all new development, including projects subject to Land Division (Subdivision or Partition) approval and developments subject to Site Design Review where public facility improvements are required. All public facility improvements within the City shall occur in accordance with the standards and procedures of this section.
3. **Public Improvement Design Standards.** All public facility improvements, including, but not limited to, sanitary sewer, water, transportation, surface water and storm drainage, and parks projects, whether required as a condition of development or provided voluntarily, shall conform to the City of Burns Public Works/Engineering Design Standards Manual (“Design Manual”). Where a conflict occurs between this Code and the Manual, the provisions of this Code shall govern.
4. **Public Improvement Requirement.** Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

The process for public improvement requirements is as follows:

- A. All required public improvements shall be specified as conditions of approval within the applicable land use decision.
- B. Prior to issuance of building permits for vertical construction or prior to public improvement work within an area proposed for dedication as part of a land division, engineered public improvement plans shall be provided demonstrating conformance with the provisions of this Code, the land use approval, and the Design Manual.
- C. Prior to planning approval for building permit review for vertical construction or prior to public improvement construction within an area proposed for dedication as part of a land division, the engineered public improvement plans shall be reviewed and approved by the City of Burns Public Works Department. All required public improvement permits shall be issued and the public improvement plan approval shall specify all required improvement inspections to be conducted during the course of construction.
- D. Prior to final plat, all required public improvements shall be installed. If final plat is requested prior to all required public improvements being installed, an adequate financial guarantee acceptable to the City Attorney shall be posted to ensure improvement completion.

- E. For public improvements required by a development not involving land division, all required public improvements shall be installed prior to certificate of occupancy for any building permit issued thereto. If a certificate of occupancy is requested prior to all required public improvements being installed, an adequate financial guarantee acceptable to the City Attorney shall be posted to ensure improvement completion.

The timing specified in the above requirements may be adjusted by the Public Works Director during or after the land use approval at the Director's sole discretion.

18.40.015 Transportation Standards

1. General Requirements.

- A. Except as provided by subsection E, below, existing substandard streets and planned streets within a proposed development shall be improved and offered for public dedication commensurate with the required right-of-way in accordance with the standards of Section 18.40 as a condition of development approval. For existing substandard streets and planned streets at the boundary of a proposed development, the development-side half of the street shall be improved and offered for public dedication commensurate with the required right-of-way in accordance with the standards of Section 18.40 as a condition of development approval; the approving authority may require 8 to 12 feet of travel surface improvement beyond new centerline of the improved street to ensure appropriate travel surface for the remaining street.
- B. All street improvements, including the extension or widening of existing streets and public access ways, shall conform to Section 18.40, and shall be constructed consistent with the City of Burns [Engineering Design Standards Manual].
- C. All new streets shall be contained within a public right-of-way. Public access ways (e.g., pedestrian ways) may be contained within a right-of-way or a public access easement, as set forth in the land use decision.
- D. The purpose of this subsection is coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a Traffic Impact Analysis; and who is qualified to prepare the analysis.
 - (1) When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:

- (a) A change in zoning or a plan amendment designation where the proposed change is expected to impact an existing or planned intersection by 50 or more net PM peak hour vehicular trips;
 - (b) Operational or safety concerns documented in writing by a road authority, such as existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;
 - (c) An increase in site traffic volume generation by 300 or more Average Daily Trips (ADT) and a new access to a higher order (Highway, arterial, or collector) level roadway is proposed;
 - (e) An increase in the use of adjacent streets by vehicles exceeding 20,000 pound gross vehicle weights by 50 vehicles or more per day;
 - (f) A TIA required by ODOT pursuant to OAR 734-051.
- (2) Traffic Impact Analysis Preparation.** A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the Traffic Impact Analysis. The professional engineer shall request a scope of work from applicable transportation facility providers and the TIA shall be conducted in accordance with the scope-of-work or else specifically state in the TIA where analysis diverged from the scope-of-work with an explanation for the divergence. Facility capacity of off-site intersections is required for all intersections described in subsection 1(a). All other TIAs required by subsection 1 above are limited to the capacity of adjacent intersections, safety issues, and access points to the public transportation system.
- E.** The Public Works Director may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in subsections (1) through (3) is met. Where the Public Works Director agrees to defer a street improvement, it shall do so only where the property owner agrees to enter into a Deferred Improvement Agreement in a form acceptable to the City.
- (1) The standard improvement conflicts with an adopted capital improvement plan.
 - (2) The standard improvement would create a safety hazard.
 - (3) It is unlikely due to the developed condition of adjacent and nearby property that street segment will be improved to current standards in the foreseeable future, and the improvement under consideration does not by itself significantly improve transportation operations or safety.

2. Street Location, Alignment, Extension, and Grades.

- A. All new streets, to the extent practicable, shall connect to the existing street network and allow for the continuation of an interconnected street network, consistent with adopted public facility plans and pursuant to subsection 18.40.015(4) Transportation Connectivity and Future Street Plans.
- B. Specific street locations and alignments shall be determined in relation to existing and planned streets, topographic conditions. Streets that are not part of a solely residential development, shall be designed to consider the public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.
- C. Grades of streets shall conform as closely as practicable to the original (pre-development) topography to minimize grading.
- D. New streets and street extensions exceeding a grade of 15 percent over a distance more than 200 feet are prohibited unless they are unavoidable. Where such grades are unavoidable, the City may approve an exception to the 200-foot standard and require mitigation, such as a secondary access for the subdivision, installation of fire protection sprinkler systems in dwellings, or other mitigation to protect public health and safety.
- E. Where the locations of planned streets are shown on a local street network plan, the development shall implement the street(s) shown on the plan.
- F. Where required local street connections are not shown on an adopted City street plan, or the adopted street plan does not designate future streets with sufficient specificity, the development shall provide street stubs to adjacent developable properties in a manner that would allow future street construction on those properties in conformance to the standards of this Code.
- G. Existing street-ends that abut a proposed development site shall be extended with the development, unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this Code. In such situations, the applicant must provide evidence that the environmental or topographic constraint precludes reasonable street connection.
- H. Proposed streets and any street extensions required pursuant to this section shall be located, designed, and constructed to allow continuity in street alignments and to facilitate future development of vacant or redevelopment of lands.

3. **Rights-of-Way and Street Section Widths.** The standards contained in Table 18.40.015.1 are intended: to provide for streets of suitable location, width, and design to accommodate expected vehicle, pedestrian, and bicycle traffic; to afford satisfactory access to law enforcement, fire protection, sanitation, and road maintenance equipment; and to provide a convenient and accessible network of streets, avoiding undue hardships to adjoining properties.

Where a range of street width or improvement options is indicated, the Approving Authority shall determine requirements based on evidence in the record and all the following factors:

- A. Street classification and requirements of the roadway authority, if different than the City’s street classifications and requirements;
- B. Existing and projected facility operations relative to applicable standards for all modes;
- C. Safety of motorists, pedestrians, bicyclists, and any transit users, including consideration of accident history;
- D. Provision of on-street parking;
- E. Placement of utilities;
- F. Street lighting;
- G. Geotechnical conditions;
- H. Surface water management and storm drainage requirements;
- I. Emergency vehicles or apparatus and emergency access, including evacuation needs;
- J. Transitions between varying street widths (i.e., existing streets and new streets); and
- K. Other factors related to public health, safety, and welfare.

**Table 18.40.015.1
Street Design Standards***

STREET DESIGN STANDARDS					
Classification	Pavement Width	ROW Width	Sidewalks	Parking	Minimum Posted Speed
Collector 1	40 feet	60 feet	6 feet, 2 foot buffer strip	Both Sides	25 – 35 MPH
Collector 2	36 feet	50 feet	6 feet, 2 foot buffer strip	One Side	25 – 35 MPH
Minor Street	32 feet	50 feet	5 feet	Both Sides	15 – 25 MPH
Minor Street (Alternative in Residential Areas)**	28 feet	50 feet	5 feet + 5 foot Park Strip (One Side)	Curbside	15 – 25 MPH
Cul-de-Sac	32 feet	50 feet	5 feet	Both Sides	15 – 25 MPH
Alley	20 feet	20 feet	None	None	15 MPH

* All streets shall be improved in accordance with the construction standards and specifications of the applicable roadway authority, including requirements for pavement, curbs, drainage, striping, and traffic control devices. Where a park strip is provided it shall consist of a

minimum 5-foot wide strip between the sidewalk and the curb or roadway. Where a swale is provided, it shall either be placed between the roadway and sidewalk or behind the sidewalk on private property, subject to City approval and recording of required public drainage way and drainage way maintenance easements. Streets with parking on one side only should be avoided. When used, they must be posted NO PARKING.

** The alternative Minor Street standard in residential areas is an asymmetric cross-section. It has an 11-foot right-of-way area on one side with an open swale and AC driveways to provide a location for drainage and snow storage. The street is designed to drain all to the 11-foot open swale area. For new development areas utilizing this standard, the approving authority will approve which side of the street will have the curb and sidewalk versus the open swale. Where this standard is being extended, the existing pattern shall be continued.

4. Transportation Connectivity and Future Street Plans. The following standards apply to the creation of new streets:

A. Intersections. Streets shall be located and designed to intersect as nearly as possible to a right angle. Street intersections shall have a minimum intersection angle of 75 degrees. All legs of an intersection shall meet the above standard for at least 100 feet back from the point of intersection. No more than two streets shall intersect, i.e., creating a four-legged intersection, at any one point. Street jogs and intersection offsets of less than 200 feet are not permitted (measured centerline-to-centerline). Intersections shall be designed to facilitate storm water runoff into City-approved storm water facilities.

B. Access Ways. An access way is required where the creation of a cul-de-sac or dead-end street is unavoidable, and the access way connects the end of the street to another street, a park, or a public access way. Where an access way is required, it shall be within a right-of-way or easement at least 10-foot wide and shall contain a minimum six-foot-wide paved surface or other all-weather surface approved by the Public Works Director. Access ways shall be contained within a public right-of-way or public access easement, as required by the City.

C. Connectivity to Abutting Lands. The street system of a proposed subdivision shall be designed to connect to existing, proposed, and planned streets adjacent to the subdivision. Wherever a proposed development abuts unplatted land or a future development phase of an existing development, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. Street ends shall contain turnarounds constructed to Uniform Fire Code standards, as the City deems applicable, and shall be designed to facilitate future extension in terms of grading, width, and temporary barricades. A 1-foot wide control strip shall be granted in fee simple to the City at the end of any street stub.

D. Street Connectivity and Formation of Blocks. In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site developments shall be served by an interconnected street network, pursuant to the standards in subsections (1) through (3) below. Distances are measured centerline-to-centerline. Where a street

connection cannot be made due to physical site constraints, approach spacing requirements, access management requirements, existing or planned land uses, or similar restrictions; a pedestrian access way may be required.

- (1) Residential zones: Minimum of 200-foot block length and maximum of 900-foot length;
- (2) General Commercial zone and Business Park zone: Minimum of 200-foot length and maximum of 1200-foot length; maximum 3,200-foot perimeter; and
- (3) Not applicable to the Industrial or Open Space zones or within a PF Overlay.

E. Cul-de-sacs. A cul-de-sac street shall only be used where the Approving Authority determines that environmental or topographical constraints, existing development patterns, or compliance with other applicable City requirements preclude a street extension or where all block length requirements will be satisfied even with the cul-de-sac. Where the City determines that a cul-de-sac is allowed, all the following standards shall be met:

- (1) The cul-de-sac shall not exceed a length of 600 feet, except where the Approving Authority determines that topographic or other physical constraints of the site require a longer cul-de-sac. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- (2) The cul-de-sac shall terminate with a circular or hammer-head turnaround meeting the Uniform Fire Code and the standards of Table 18.40.015.1.
- (3) The cul-de-sac may be required to provide, or not preclude the opportunity to later install, a pedestrian and bicycle access way between it and adjacent developable lands. Such access ways shall conform to subsection 18.40.015(4)(B).

F. Future Street Plan. Where a subdivision is proposed adjacent to other developable land, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other divisible parcels within 600 feet surrounding and adjacent to the proposed land division. The street plan is not binding, but is intended to show potential future street extensions with future development. The plan must illustrate that the proposed development does not preclude future street connections to adjacent development land that could feasibly comply with applicable City standards.

G. Private Streets and Drives. Except where approved as part of a Planned Unit Development pursuant to Section 18.20.600, private streets and gated drives shall not be used to satisfy block length and connectivity standards of this ordinance.

5. **Engineering Design Standards.** Street design shall conform to the standards of the applicable roadway authority; for City streets that is the Engineering/Public Works Design Standards Manual. Where a conflict occurs between this Code and the Manual, the provisions of this Code shall govern.
6. **Fire Code Standards.** Proposed streets shall provide access for fire, life, and safety. Where Fire Code standards conflict with City standards, the City shall consult with the Fire Marshal in determining appropriate requirements. The land use decision shall be the final determination regarding applicable standards.
7. **Substandard Existing Right-of-Way.** Where an existing right-of-way adjacent to a proposed development is less than the standard width, the Planning Commission may require the dedication of additional rights-of-way at the time of Subdivision, Partition, or Site Plan Review, pursuant to the standards in Table 18.40.015.1.
8. **Traffic Calming.** The City may require the installation of traffic calming features such as traffic circles, curb extensions, reduced street width (parking on one side), medians with pedestrian crossing refuges, speed tables, speed humps, or special paving to slow traffic in neighborhoods or commercial areas with high pedestrian traffic.
9. **Streets Adjacent to Railroad Right-of-Way.** When a transportation improvement is proposed within 300 feet of a railroad crossing, or a modification is proposed to an existing railroad crossing, the Oregon Department of Transportation and the rail service provider shall be notified and given an opportunity to comment. Private crossing improvements are subject to review and licensing by the rail service provider.
10. **Street Names.** No new street name shall be used which will duplicate or be confused with the names of existing streets in the City of Burns or vicinity.
11. **Survey Monuments.** Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been reestablished and protected.
12. **Street Signs.** The city, county, or state with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
13. **Streetlight Standards.** Streetlights shall be relocated or new lights installed, as applicable, with street improvement projects. Streetlights shall conform to City standards, or the requirements of the roadway authority, if different than the City.
14. **Mail Boxes.** Mailboxes shall conform to the requirements of the United States Postal Service and the State of Oregon Structural Specialty Code.

18.40.020 Public Use Areas

1. Dedication of Public Use Areas.

- A.** Where a proposed park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision, provided that the impact of the development on the City park system is roughly proportionate to the dedication or reservation being made.
- B.** The City may purchase or accept voluntary dedication or reservation of areas within the subdivision that are suitable for the development of parks and other public uses; however, the City is under no obligation to accept such areas offered for dedication or sale.

18.40.025 Sanitary Sewer and Water Service Improvements

- 1. Sewers and Water Mains Required.** All new development is required to connect to City water and sanitary sewer systems. Sanitary sewer and water system improvements shall be installed to serve each new development and to connect developments to existing mains in accordance with the adopted facility master plans and applicable Engineering/Public Works Design Standards. Where streets are required to be stubbed to the edge of the subdivision, sewer and water system improvements and other utilities shall also be stubbed with the streets, except as may be waived by the Public Works Director where alternate alignment(s) are provided and approved.
- 2. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the Public Works Director has approved all sanitary sewer and water plans in conformance with City standards.
- 3. Over-Sizing.** The City may require as a condition of development approval that sewer and water lines serving new development be sized to accommodate future development within the area as projected by the applicable facility master plans, and the City may authorize other cost-recovery or cost-sharing methods as provided under state law.
- 4. Inadequate Facilities.** Development permits may be restricted or rationed by the Planning Commission where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which, if not rectified, will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. Land use approvals may impose requirements such as water booster pumps, sanitary sewer lift stations, and other critical facilities be installed with backup power to address such issues.

18.40.030 Storm Drainage and Surface Water Management Facilities

- 1. General Provisions and Applicability.** The City shall issue a development permit only where adequate provisions for stormwater runoff will be made. Developments shall install any on-

site improvements identified in the most current version of the City's Stormwater and Drainage Master Plan.

Storm drainage facilities shall be designed to accommodate the design year storm specified in the most current version of the City's Stormwater and Drainage Master Plan or the 10-year storm where a design year storm is not specified in the City's Stormwater and Drainage Master Plan. The City may impose conditions of approval on any development proposal to prevent storm water impacts on adjacent properties.

Type II, III, and IV land use applications for developments that propose a net increase of new impervious surface of one acre or greater, shall provide a preliminary grading and storm drainage plan with an accompanying drainage analysis prepared by an Oregon Registered Professional Engineer. This plan shall demonstrate compliance with the most current version of the City's Stormwater and Drainage Master Plan and all provisions of this code.

2. **Accommodation of Upstream Drainage.** Culverts and other drainage facilities installed within the development shall be engineered to be large enough to accommodate existing and potential future runoff from the entire upstream drainage area for the design year storm, whether inside or outside the development.
3. **Downstream Drainage Discharge.** Stormwater discharge shall either be into a public drainage facility or shall discharge in the same location, manner, and quantity as the pre-development condition. Type II, III, and IV land use applications for developments that propose a net increase of new impervious surface of one acre or greater, shall provide a preliminary grading and storm drainage plan with an accompanying drainage analysis prepared by an Oregon Registered Professional Engineer that demonstrates downstream public drainage facilities are adequate in condition and capacity to handle the discharge.
4. **Over-Sizing.** The City may require as a condition of development approval that sewer, water, or storm drainage systems serving new development be sized to accommodate additional future development within the area as projected by the applicable facility master plan; cost implications of such conditions shall comply with applicable limitations on exactions.
5. **Existing Watercourse Easements or Rights of Way.** Where a proposed development is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a storm water easement or drainage right-of-way dedicated to the public. The easement or right-of-way width shall be not less than a lateral extension at right angles 8 feet distal from the watercourse, drainageway, channel, or stream banks; if there is no discernable bank the easement shall extend 10 feet from the centerline of the watercourse, drainageway, channel, or stream.
6. **Engineered Improvement Plans Required.** Type II, III, and IV land use applications for developments that propose a net increase of new impervious surface of one acre or greater or developments approved with specific drainage conditions, shall provide a final grading and drainage plan prepared by an Oregon Registered Professional Engineer. The grading and drainage plan shall be reviewed and approved by the Public Works Department prior to

installation of new drainage facilities. All facility improvements shall be installed with the development in accordance with the approved engineered plans.

18.40.035 Utilities

The following standards apply to new development where extension of electric power or communication lines is required:

- 1. General Provision.** The developer of a property is responsible for coordinating the development plan with the applicable utility providers and paying for the extension and installation of utilities not otherwise available to the subject property.
- 2. Underground Utilities.**
 - A. General Requirement.** The requirements of the utility service provider shall be met. All utility lines in new subdivisions, including, but not limited to, those required for electric, communication, and lighting, and related facilities, shall be placed underground, except where the Approving Authority determines that placing utilities underground would not adversely impact adjacent land uses. The Approving Authority may require screening and buffering of above ground facilities to protect the public health, safety, or welfare.
 - B. Subdivisions.** In order to facilitate underground placement of utilities, the following additional standards apply to all new subdivisions:
 - (1)** The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that no above ground equipment obstructs vision clearance areas for vehicular traffic, per Section 18.50.220.6.
 - (2)** The City reserves the right to approve the location of all surface-mounted facilities.
 - (3)** All underground utilities installed in streets must be constructed and approved by the applicable utility provider and the Public Works Director prior to the surfacing of the streets.
 - (4)** Stubs for service connections shall be long enough to avoid disturbing the street improvements when future service connections are made.
- 3. Exception to Undergrounding Requirement.** The Approving Authority for the land use application may grant exceptions to the undergrounding standard where existing physical constraints, such as geologic conditions, streams, or existing development conditions make underground placement impractical or where the development is small in relation to the existing development patterns around the site that all have above-ground utilities.

18.40.040 Easements

- 1. Provision.** The developer shall make arrangements with the City and applicable utility providers for each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.
- 2. Standard.** Utility easements shall conform to the requirements of the utility service provider. All other easements shall conform to the City of Burns Engineering Design Standards/Public Works Design Standards.
- 3. Recordation.** All easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other utilities shall be recorded and referenced on a survey or final plat, as applicable. See Section 18.20.100 Land Divisions, and Section 18.20.200 Site Design Review.

18.40.100 Public Improvement Plan Performance

18.40.110 Construction Plan Approval

No development, including sanitary sewers, water, streets, parking areas, buildings, or other development, shall be undertaken without plans having been approved by the City of Burns, permit fees paid, and permits issued. Permit fees are required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. Permit fees are as set by City Council resolution.

18.40.115 Facility Installation

- 1. Conformance Required.** Improvements installed by the developer, either as a requirement of these regulations or at the developer's option, shall conform to the requirements of this section, approved construction plans, and to improvement standards and specifications adopted by the City.
- 2. Adopted Installation Standards.** The City of Burns has adopted Public Works Design Standards for public improvements and private utility installation within the public right-of-way.
- 3. Commencement.** Work in a public right-of-way shall not begin until all applicable agency permits have been approved and issued.
- 4. Resumption.** If work is discontinued for more than 12 months, it shall not be resumed until the Public Works Director is notified in writing and grants approval of an extension.
- 5. City Inspection.** Improvements shall be constructed under the inspection of the Public Works Director or designee. The Public Works Director may approve minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Any survey monuments that are disturbed before all improvements are

completed by the developer or subdivider shall be replaced prior to final acceptance of the improvements.

- 6. Engineer's Certification and As-Built Plans.** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City's acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide one hardcopy set of "as-built" plans, one electronic set in .pdf and one electronic set in CAD for permanent filing with the City. If required by the City, the developer or subdivider shall provide a warranty bond pursuant to Section 18.40.120.

18.40.120 Performance Guarantee and Warranty

- 1. Performance Guarantee Required.** The City at its discretion may approve a final plat or building permit when it determines that at least 25 percent of the public improvements required for the site development or land division, or phase thereof, are complete and the applicant has an acceptable assurance for the 120% of the Engineer's estimate of the balance of said improvements. The applicant shall provide a bond issued by a surety authorized to do business in the state of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the City Attorney, cash, or other form of security acceptable to the City.
- 2. Determination of Sum.** The assurance of performance shall be for a sum determined by the City Engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses, plus reasonable inflationary costs. The assurance shall not be less than 120 percent of the estimated improvement costs.
- 3. Itemized Improvement Estimate.** The applicant shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- 4. Agreement.** A written agreement between the City and applicant shall be signed and recorded. The agreement may include a provision for the construction of the improvements in stages and for the extension of time under specific conditions. The agreement shall contain all the following:
 - A.** The period within which all required improvements and repairs shall be completed;
 - B.** A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
 - C.** The required improvement fees and deposits.

18.50 DEVELOPMENT STANDARDS

18.50.010 Purpose

Section 18.50 sets forth lot and development standards, including minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development.

18.50.020 Applicability

All new development in the City of Burns is subject to the regulations of Section 18.50. Where new proposed development is located within an Overlay Zone, the Overlay Zone provisions apply in addition to the general development regulations of this section. In the case of a conflict between the overlay zone and the general regulations, the conflict shall be resolved in favor of the more specific overlay zone provisions.

18.50.100 Lot and Development Standards

- 1. Development Standards.** Section 18.50.100 provides the general lot and development standards for each of the City's base zoning districts. The standards of Section 18.50.100 are organized into two tables: Table 18.50.100.3 applies to residential zones, and Table 18.50.100.4 applies to non-residential zones.
- 2. Design Standards.** City standards for access and circulation, building design, parking and loading, landscaping, fences and screening, among others, are located in Section 18.50. Notwithstanding the provisions of Tables 18.50.100.3 and 18.50.100.4, and Section 18.40, different standards may apply in specific locations, such as at street intersections, within overlay zones, adjacent to natural features, and other areas as may be regulated by this Code or subject to state or federal requirements.
- 3. Lot and Development Standards for Residential Districts.** The development standards in Table 18.50.100.3 apply to all new development as of **(effective date of code)** in residential zones.

**Table 18.50.100.3
Lot and Development Standards for Residential Zones**

<i>All standards are minimums unless noted as otherwise</i>	Residential Zones		
	SFR-4	SFR-7	MFR
Lot Area	7,500 sq. ft.	4,800 sq. ft.	(1) 20,000 sq. ft. minimum lot area for land division without consolidated land use application review for multi-family development. (2) No minimum lot area for multi-family lots consolidated with land use application for multi-family development that complies with all other applicable multi-family development standards.
Lot Width	55 ft.	45 ft.	40 ft.
Lot Depth	80 ft.	80 ft.	80 ft.
Lot Frontage	30 ft., except 20 ft. for flag lots	30 ft., except 20 ft. for flag lots	30 ft.
Maximum Lot Coverage	n/a	n/a	No more than 40% occupied by building footprint for conditioned habitable spaces.
Maximum Building Height	35 ft.	35 ft.	35 ft.
Setbacks*			
Front Yard	20 ft.	20 ft.	20 ft.
Side Yard	5 ft.	5 ft.	10 ft.
Street Side Yard	15 ft.	15 ft.	15 ft.
Rear Yard	5 ft.	5 ft.	10 ft.
<i>*Vision clearance areas shall be provided in accordance with subsection 18.50.220.6</i>			

- 4. Lot and Development Standards for Non-Residential Districts.** The development standards in Table 18.50.100.4 apply to all new developments as of **code effective date** in the City's Non-Residential zones, as follows.

**Table 18.50.100.4
Lot and Development Standards for Non-Residential Zones**

<i>All standards are minimums unless noted as otherwise</i>	Non-Residential Zones			
	GC	BP	I	OS
Lot Area	(1) 20,000 sq. ft. minimum lot area for land division without consolidated land use application review for non-residential development (2) No minimum lot area for non-residential lots consolidated with land use application for non-residential development that complies with all other applicable development standards.			Currently 40 ac. Recommend 20 ac.
Lot Width	50 ft.	50 ft.	100 ft.	n/a
Lot Depth	50 ft.	80 ft.	100 ft.	n/a
Lot Frontage	50 ft.	50 ft.	50 ft.	n/a
Maximum Lot Coverage	n/a	n/a	n/a	10%
Maximum Building Height	45 ft.	45 ft.	45 ft.	35 ft.
Setbacks*				
Front Yard	Dimensional setbacks are not required; building code requirements for property line relationships must be met.			20 ft.
Side Yard				5 ft.
Rear Yard				5 ft.
<i>*Vision clearance areas shall be provided in accordance with Section 18.50.220.6</i>				
Landscaping, Fences, and Walls				
Minimum Landscape Area <i>(% site area including required parking lot landscaping and any required street trees and screening) See also, Section 18.50.315</i>	10%			n/a
Maximum Height of Fences & Non-Building Walls				
Front Yard*	3 ft.			
Interior Side Yard	6 ft.			
Rear Yard	6 ft.			n/a
Street Side Yard	6 ft.			
<i>*See also, Section 18.50.320</i>				

18.50.110 Setback Yards Exceptions

1. Encroachments

- A. Except as otherwise restricted by applicable building codes, building elements such as eaves, chimneys, bay windows, overhangs, heating, cooling and ventilation systems, and similar incidental structures, may extend into the required setback yards by no more than 18 inches, provided that a setback of not less than 36 inches is maintained, all applicable building codes are met, and the vision clearance standards in Section 18.50.220.6 are met.
- B. Porches, decks, patios, and similar features not exceeding 30 inches in height may encroach into setbacks, provided a minimum setback of not less than 36 inches is maintained and all applicable building codes are met.
- C. Fences may be placed within setback yards, subject to the standards of Section 18.50.300.

2. Through Lots

Buildings on through lots are required to meet the build-to line standard on only one street. Through lots are subject to the fence height and setback requirements of Section 18.50.320 and the design standards (e.g., materials and landscape buffer requirements) of Section 18.50.315.

18.50.115 Lot Coverage

- 1. **Lot Coverage Calculation.** The maximum allowable lot coverage, as provided in Tables 18.50.100.3 and 18.50.100.4, is calculated as the percentage of a lot or parcel covered by buildings and structures (as defined by the foundation plan area). It does not include uncovered surface-level developments such as driveways, parking pads, and patios.

18.50.120 Height Measurement and Exceptions

- 1. **Building Height Measurement.** Building height is measured as being the vertical distance from the average contact ground level at the front wall of the building to the highest top plate.
- 2. **Exception from Maximum Building Height Standards.** Except as required pursuant to FAA regulations, chimneys, bell towers, steeples, roof equipment, flag poles, and similar features not for human occupancy are exempt from the maximum building heights, provided that all applicable fire and building codes are met.

18.50.125 Multi-Family Development Design Standards

- 1. **Purpose.** The following standards are intended to ensure that multifamily developments are planned with adequate open space and are designed to prevent conflicts between residential uses, on-site recreation, and vehicle circulation and parking areas.
- 2. **Applicability.** This section applies to new multifamily developments.

3. Standards.

A. Common Open Space and Landscaping. A minimum of 10 percent of the site area shall be designated for usable recreation space for multifamily developments consisting of 12 units or more.

- (1) "Site area" for the purposes of this section is defined as the subject lot or lots after subtracting any required dedication of street right-of-way.
- (2) The usable recreation space shall contain one or more of the following: outdoor recreation amenities, turf play fields or playgrounds, sports courts, swim pool, walking fitness course, or barbecue area. Other usable recreation spaces may be approved by the approving authority.
- (3) In order to be counted as eligible toward the minimum usable recreation space area, such areas shall have dimensions of not less than 20 feet.
- (4) Open space and common areas not otherwise developed with recreational facilities, buildings, or parking areas, shall be landscaped.

B. Private Open Space. Private open space areas shall be required for dwelling units based on the following criteria:

- (1) A minimum of 60 percent of all ground-floor dwelling units shall have front or rear patios or decks containing at least 96 square feet of usable area. Ground floor housing means the housing unit entrance (front or rear) is within five feet of the finished ground elevation (i.e., after grading and landscaping).
- (2) A minimum of 40 percent of all upper-floor housing units shall have balconies or porches containing at least 48 square feet of usable area. Upper-floor housing means housing units that are more than five feet above the finished grade.

C. Trash Storage. Trash receptacles, recycling, and storage facilities shall be oriented away from building entrances, setback at least 10 feet from any public right-of-way and adjacent residences and shall be screened with an evergreen hedge or solid fence or wall of not less than six feet in height. Receptacles must be accessible to trash pick-up trucks.

18.50.130 Commercial Building Orientation and Design

1. **Purpose and Applicability.** The following requirements apply to new commercial development, such as shopping centers, office complexes, and mixed-use developments.
2. **Building Orientation.** The approving authority may approve adjustments to the following standards as part of a Site Design Review approval, pursuant to Section 18.20.520 and 18.20.200, respectively.

- A. All buildings shall have at least one primary entrance facing an abutting street (i.e., within 45 degrees of the street property line), and a pedestrian walkway must connect the primary entrance to the sidewalk except in cases where less than 40 percent of the property's street frontage is occupied by parking between the building and the street.
- B. Off-street parking, trash storage facilities, and ground-level utilities (e.g., utility vaults), and similar obstructions shall not be placed between primary entrances and the street(s) to which they are oriented. To the extent practicable, such facilities shall be oriented internally to the site.
- C. Off-street parking shall be oriented internally to the site to the extent practicable, and shall meet the Access and Circulation requirements of Section 18.50.200, the Landscaping and Screening requirements of Section 18.50.315, and the Parking and Loading requirements of Section 18.50.400.

3. Primary Entrances and Windows.

- A. **All Elevations of Building.** Architectural designs shall address all elevations of a building. Building forms, detailing, materials, textures, and color shall contribute to a unified design with architectural integrity. Materials used on the front façade must turn the building corners and include at least a portion of the side elevations, consistent with the building's overall composition and design integrity.
- B. **Pedestrian Entrances.** Ground level entrances oriented to a street shall be at least partly transparent for natural surveillance and to encourage an inviting and successful business environment; except that the entrance may be glazed but not transparent for uses with significant age-restricted sales or activities. This standard may be met by providing a door with a window(s), a transom window above the door, or sidelights beside the door. Building facades on ground-level entrances oriented to a street shall have complimentary building articulation that accents the entrance such as columns, recesses, canopies, porticos, or similar architectural features. All ground level entrances shall open to a sidewalk and shall conform to Americans with Disabilities Act (ADA) requirements, as applicable. Primary entrances above or below grade may be allowed where ADA accessibility is provided.
- C. **ATMs, Kiosks, Similar In-Wall Features.** Where ATMs or other kiosks are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter.
- D. **Storefront Windows.** The ground floor, street-facing elevation(s) of all buildings shall comprise at least 40 percent glazing, measured as a section extending the width of the street-facing elevation between the building base and a plane 5-feet above the plate of the ground floor.
- E. **Defined Upper Story(ies).** Building elevations shall contain detailing that visually defines street level building spaces (storefronts) from upper stories. The distinction between street

level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials, or fenestration. Upper floors may have less window area than ground floors but shall follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices.

F. Window Trim. At a minimum, windows shall contain trim, reveals, recesses, or similar detailing.

5. Materials Detailing. Elevations should incorporate changes in material that define a building's base, middle, and top, as applicable, and create visual interest and relief. Side and rear elevations that do not face a street, public parking area, pedestrian access way, or plaza may utilize changes in texture and/or color of materials, provided that the design is consistent with the overall composition of the building.

6. Mechanical Equipment

A. Building Walls. Where mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, is permitted on a building wall that abuts a public right-of-way or civic space, it shall be screened pursuant to subsection 18.50.315.6. Standpipes, meters, vaults, and similar equipment need not be screened but shall not be placed on a front elevation when other practical alternatives exist; such equipment shall be placed on a side or rear elevation where practical.

B. Rooftops. Except as provided below, rooftop mechanical units shall be setback or screened behind a parapet wall so that they are not visible from any public right-of-way or civic space. Where such placement and screening is not practicable, the approving authority may approve painting of mechanical units in lieu of screening; such painting may consist of muted, earth-tone colors that make the equipment visually subordinate to the building and adjacent buildings, if any.

C. Ground-Mounted Mechanical Equipment. Ground-mounted equipment, such as generators, air compressors, trash compactors, and similar equipment, shall be limited to side or rear yards and screened with fences or walls constructed of materials complimentary to the main building architecture. Hedges, trellises, and similar plantings may also be used as screens where there is adequate air circulation and sunlight, and irrigation is provided. The City may require additional setbacks and noise attenuating equipment for compatibility with adjacent uses.

18.50.200 Access and Circulation

18.50.210 Purpose

This section contains standards for vehicular and pedestrian access, circulation, and connectivity. The standards promote safe, reasonably direct, and convenient options for walking and bicycling, while accommodating vehicle access to individual properties.

18.50.215 Applicability

This section applies to new development and changes in land use necessitating a new or modified street or highway connection. Except where the standards of a roadway authority other than the City supersede City standards, Section 18.50.200 applies to all connections to a street or highway, and to driveways and walkways.

18.50.220 Vehicular Access and Circulation

- 1. Permit Required.** Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires an approach permit approved by the applicable roadway authority.
- 2. Traffic Study Requirements.** The City, in reviewing a development proposal or other action requiring an approach permit, may require a traffic impact analysis, pursuant to Section 18.40.015, to determine compliance with this code.
- 3. Approach and Driveway Development Standards.** Approaches and driveways shall conform to all the following development standards:
 - A.** The number of approaches on higher classification streets (e.g., collector and arterial streets) shall be appropriate for the proposed land use and the functional classification of the street; where practicable, access shall be taken first from collector or lower classification streets.
 - B.** Approaches shall conform to the spacing standards of subsections E and F, below, and shall conform to minimum sight distance and channelization standards of the roadway authority.
 - C.** Driveways shall be paved and meet applicable construction standards. Where permeable paving surfaces are used, such surfaces shall conform to any applicable Engineering Design Standards.
 - D.** The approving authority may limit the number or location of connections to a street, or limit directional travel at an approach to one-way, right-turn only, or other restrictions. The roadway authority may require turning movement restrictions and associated improvements to mitigate safety or traffic operations concerns.
 - E.** Where the spacing standards of the roadway authority limit the number or location of connections to a street or highway, the approving authority may require a driveway extend to one or more edges of a parcel and be designed to allow for future extension and inter-parcel circulation as adjacent properties develop. The approving authority may also require the owner(s) of the subject site to record an access easement for future joint use of the approach and driveway as the adjacent property(ies) develop(s).
 - F.** Where applicable codes require emergency vehicle access, approaches and driveways shall be designed and constructed to accommodate emergency vehicle apparatus and shall

conform to applicable fire protection requirements. The approving authority may restrict parking, require signage, or require other public safety improvements pursuant to the recommendations of an emergency service provider.

- G.** As applicable, approaches and driveways shall be designed and constructed to accommodate truck/trailer-turning movements.
- H.** Except where the approving authority and roadway authority, as applicable, permit an open access with perpendicular or angled parking (See Section 18.50.200), driveways shall accommodate all projected vehicular traffic on-site without vehicles stacking or backing up onto a public street.
- I.** Driveways shall be designed so that vehicle areas, including, but not limited to, drive-up and drive-through facilities and vehicle storage and service areas, do not obstruct any public right-of-way.
- J.** Approaches and driveways shall not be wider than necessary to safely accommodate projected peak hour trips and turning movements, and shall be designed with appropriate crossing distances for pedestrians.
- K.** As it deems necessary for pedestrian safety, the approving authority, in consultation with the roadway authority, as applicable, may require that traffic-calming features, such as speed tables, textured driveway surfaces (e.g., pavers or similar devices), curb extensions, signage or traffic control devices, or other features, be installed on or in the vicinity of a site as a condition of development approval.
- L.** Construction of approaches along acceleration or deceleration lanes, and along tapered (reduced width) portions of a roadway, shall be avoided; except where no reasonable alternative exists and the approach does not create safety or traffic operations concern.
- M.** Approaches and driveways shall be located and designed to allow for safe maneuvering in and around loading areas, while avoiding conflicts with pedestrians, parking, landscaping, and buildings.
- N.** Where sidewalks or walkways occur adjacent to a roadway, driveway aprons constructed of concrete shall be installed between the driveway and roadway edge. The roadway authority may require the driveway apron be installed outside the required sidewalk or walkway surface, consistent with Americans with Disabilities Act (ADA) requirements, and to manage surface water runoff and protect the roadway surface.
- O.** Where an accessible route is required pursuant to ADA, approaches and driveways shall meet accessibility requirements where they coincide with an accessible route.
- P.** Where a new approach onto a state highway or a change of use adjacent to a state highway requires ODOT approval, any land use approval will be conditioned to require ODOT approval that is substantially consistent with the land use approval.

Q. Where a proposed driveway crosses a culvert or drainage ditch, the developer shall install a culvert or other approved drainage conveyance structure that extends under and beyond the edges of the driveway on both sides of it, pursuant to applicable Public Works design standards.

R. Except as otherwise required by the applicable roadway authority or waived by the Public Works Director, temporary driveways providing access to a construction site or staging area shall be paved or graveled to prevent tracking of mud onto adjacent paved streets.

4. Approach Separation from Street Intersections. Except as provided by subsection 18.50.220.7, the following minimum distances shall be maintained between approaches and street intersections, where distance is measured from the edge of an approach surface to the edge of the roadway at its ultimate designated width:

A. On an arterial street: 200 feet, except as required by ODOT, pursuant to Oregon Administrative Rule (OAR) 734-051, for state highways

B. On a collector street: 50 feet

C. On a local street: 30 feet

5. Approach Spacing. Except as provided by subsection 18.50.220.7 or as required to maintain street operations and safety, the following minimum distances shall be maintained between approaches, where distance is measured from the edge of one approach to the edge of another:

A. On an arterial street: 250 feet based on speed limit or posted speed, as applicable, except as otherwise required by ODOT for a state highway, pursuant to Oregon Administrative Rules (OAR) 734-051.

B. On a collector street: 100 feet for non-residential development and 50 feet for residential development.

C. On a local street: 3 feet.

6. Vision Clearance. No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) between three feet and eight feet in height shall be placed in “vision clearance areas” at street intersections, as illustrated below in Figure 18.50.220.6.A and 18.50.220.6.B.

The minimum vision clearance area may be modified by the Planning Official through a Type I procedure, upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). The placement of light poles, utility poles, and tree trunks should be avoided within vision clearance areas to the extent practicable.

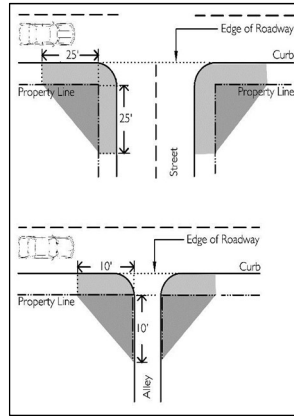


Figure 18.50.220.6.A
Vision Clearance Area in
Residential Zones

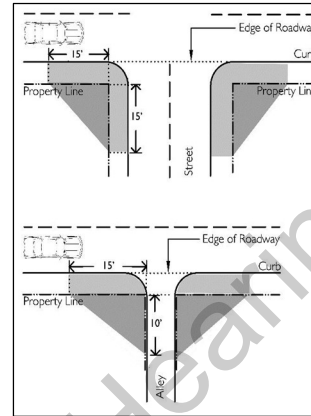


Figure 18.50.220.6.B
Vision Clearance Area in
Non-Residential Zones

7. **Exceptions and Adjustments.** The Planning Official may approve adjustments to the spacing standards of subsections 4 and 5, above, where an existing connection to a City street does not meet the standards of the roadway authority and the proposed development moves in the direction of code compliance. The Planning Official through a Type II procedure may also approve a deviation to the spacing standards on City streets where they find that mitigation measures, such as consolidated access (removal of one access), joint use driveways (more than one property uses same access), directional limitations (e.g., one-way), turning restrictions (e.g., right-in/right-out only), or other mitigation alleviate all traffic operations and safety concerns.
8. **Joint Use Access Easement and Maintenance Agreement.** Where the City approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the City for its records, but the City is not responsible for maintaining the driveway or resolving any dispute between property owners.

18.50.225 Pedestrian Access and Circulation

1. **Purpose and Intent.** This section is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation. This section does not apply to development in industrial zones.
2. **Standards.** Developments shall conform to all the following standards for pedestrian access and circulation:
 - A. **Continuous Walkway System.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent public sidewalks, if any, and to all future phases of the development, as applicable.

B. Safe, Direct, and Convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:

- (1) The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not add more than 30 percent of total travel distance when compared to a straight line. In all cases a route that does not add more than 400 feet of out of direction travel shall be considered reasonably direct.
- (2) The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The approving authority may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.
- (3) The walkway network connects to all primary building entrances, consistent with the pedestrian access and circulation standards of Section 18.50.225 and, where required, Americans with Disabilities Act (ADA) requirements.

C. Vehicle/Walkway Separation. Except as required for crosswalks, per subsection D below, where a walkway abuts a driveway or street it shall be raised at least six inches and curbed along the edge of the driveway or street. Alternatively, the approving authority may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle- maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.

D. Crosswalks. Where a walkway crosses a parking area or driveway (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The crosswalk may be part of a speed table to improve driver-visibility of pedestrians.

E. Walkway Width and Surface. Walkways, including access ways required for subdivisions pursuant to Section 18.20.100, shall be constructed of concrete, asphalt, brick or masonry pavers, or other durable surface, as approved by the City Engineer, and not less than five feet wide. Multi-use paths (i.e., designed for shared use by bicyclists and pedestrians) shall be concrete or asphalt and shall conform to the transportation standards of Section 18.40.015.

18.50.300 Landscaping, Fences, Walls, and Exterior Lighting

18.50.310 Purpose & Applicability

Section 18.50.300 establishes design standards for when a fence or a wall not attached to a building is to be erected, extended, or otherwise altered. It also applies to situations where this code requires

screening or buffering (e.g., outdoor or unenclosed storage uses). The standards of Section 18.50.300 supplement the development standards in Table 18.50.100.4 and any applicable Special Use requirements under Section 18.30.200.

18.50.315 Landscaping and Screening

- 1. General Landscape Standard.** All portions of a lot not otherwise developed with buildings, accessory structures, vehicle maneuvering areas, or parking shall be landscaped.
- 2. Minimum Landscape Area.** All non-residential lots shall conform to the minimum landscape area standards of the applicable zoning district, as contained in Table 18.50.100.4. The decision-making body may allow credit toward the minimum landscape area for existing vegetation that is retained in the development.
- 3. Plant Selection.** A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on the local climate, exposure, water availability, and drainage conditions, among other factors. When new vegetation is planted, soils shall be amended and irrigation shall be provided, as necessary, to allow for healthy plant growth. The selection of plants shall be based on all the following standards and guidelines:
 - A.** Use plants that are appropriate to the local climate, exposure, and water availability. The presence of utilities and drainage conditions shall also be considered. The City may rely on expert sources in evaluating landscape plans (e.g., Oregon State University Extension Service bulletins / University of Washington Urban Forestry Program guidelines, etc.).
 - B.** Plant species that do not require irrigation once established (naturalized) are preferred over species that require irrigation.
 - C.** Trees shall be not less than two-inch caliper for street trees and 1.5-inch caliper for other trees at the time of planting. Trees to be planted under or near power lines shall be selected so as to not conflict with power lines at maturity.
 - D.** Shrubs shall be planted from five-gallon containers, minimum, where they are for required screens or buffers, and two-gallon containers minimum elsewhere.
 - E.** Shrubs shall be spaced in order to provide the intended screen or canopy cover within two years of planting.
 - F.** All landscape areas, whether required or not, that are not planted with trees and shrubs or covered with allowable non-plant material, shall have ground cover plants that are sized and spaced to achieve plant coverage of not less than 50 percent at maturity.
 - G.** Bark dust, chips, aggregate, or other non-plant ground covers may be used, but shall cover not more than 50 percent of any landscape area. Non-plant ground covers cannot

be a substitute for required ground cover plants.

- H. Where storm water retention or detention, or water quality treatment facilities are proposed, they shall be planted with water-tolerant species.
 - I. Existing mature trees that can thrive in a developed area and that do not conflict with other provisions of this Code may be retained where specimens are in good health, have desirable aesthetic characteristics, and do not present a hazard. When such trees are proposed to be retained, the decision-making body may reduce the plant coverage standards of subsection F above by up to one-half.
 - J. Landscape plans shall avoid conflicts between plants and buildings, streets, walkways, utilities, and other features of the built environment.
 - K. Evergreen plants shall be used where a sight-obscuring landscape screen is required.
 - L. Deciduous trees should be used where summer shade and winter sunlight is desirable.
 - M. Landscape plans should provide focal points within a development, for example, by preserving large or unique trees or groves or by using flowering plants or trees with fall color.
 - N. Landscape plans should use a combination of plants for seasonal variation in color and yearlong interest.
 - O. Where plants are used to screen outdoor storage or mechanical equipment, the selected plants shall have growth characteristics that are compatible with such features.
 - P. Landscape plans shall provide for both temporary and permanent erosion control measures, which shall include plantings where cuts or fills, including berms, swales, storm water detention facilities, and similar grading, is proposed.
 - Q. When new vegetation is planted, soils shall be amended and irrigation provided, as necessary, until the plants are naturalized and able to grow on their own.
4. **Parking Lot Landscaping.** The following standards shall be met for all new parking lots. If a development contains multiple parking lots, then the standards shall be evaluated separately for each parking lot.
- A. A minimum of 10 percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of canopy trees distributed throughout the parking area. A combination of deciduous and evergreen trees, shrubs, and ground cover plants is required. At a minimum, one tree per 12 parking spaces on average shall be planted over and around the parking area.

- B. All parking areas with more than 25 spaces shall provide landscape islands with trees that break up the parking area into rows of not more than 10 contiguous parking spaces. Landscape islands and planters shall have dimensions of not less than 48 square feet of area and no dimension of less than six feet (including curbing), to ensure adequate soil, water, and space for healthy plant growth.
 - C. All required parking lot landscape areas not otherwise planted with trees must contain a combination of shrubs and groundcover plants so that, within two years of planting, not less than 50 percent of that area is covered with living plants.
 - D. Wheel stops, curbs, bollards, or other physical barriers are required along the edges of all vehicle- maneuvering areas to protect landscaping from being damaged by vehicles. Trees shall be planted not less than two feet from any such barrier.
 - E. Trees planted in tree wells within sidewalks or other paved areas shall be installed with root barriers.
5. **Screening Requirements.** Screening is required for outdoor storage areas, unenclosed uses, and parking lots, and may be required in other situations as determined by the decision-making body. Landscaping shall be provided pursuant to the standards of subsections A – C, below:
- A. **Outdoor Storage and Unenclosed Uses.** All areas of a site containing or proposed to contain outdoor storage of goods, materials, equipment, and vehicles (other than required parking lots and service and delivery areas, per Site Design Review), and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a sight-obscuring fence, wall, landscape screen, or combination of screening methods. See also Section 18.50.300 for related fence and wall standards.
 - B. **Parking Lots.** The edges of parking lots shall be screened to minimize vehicle headlights shining into adjacent rights-of-way and residential yards. Parking lots abutting a sidewalk or walkway shall be screened using a low-growing hedge or low garden wall to a height of between three feet and four feet.
 - C. **Other Uses Requiring Screening.** The decision-making body may require screening in other situations as authorized by this Code, including, but not limited to, outdoor storage areas, blank walls, and as mitigation where an applicant has requested an adjustment pursuant to Section 18.20.520.
6. **Maintenance.** All landscaping shall be maintained in good condition, or otherwise replaced by the property owner.

18.50.320 Fences and Walls

- 1. **Purpose.** This section provides general development standards for fences, and walls that are not part of a building, such as screening walls and retaining walls.

2. Height.

A. Residential Zones. Fences and freestanding walls (i.e., exclusive of building walls) for residential uses shall not exceed the following heights above grade, where grade is measured from the highest adjacent finished ground level, or in the case of fencing within a required yard area abutting a public street, from the finished grade on the side nearest the street.

(1) Within Front Yard Setback: three feet; except the following additional height is allowed:

(a) A fence may be constructed to a maximum height of six feet where the fence is of open chain link or other “see-through” composition that allows 90 percent light transmission.

(2) Within an Interior Side or Rear Yard Setback: six feet.

(3) Within a Street-Side Yard Setback: six feet.

B. Non-Residential Zones. Fences and freestanding walls (i.e., exclusive of building walls) for non-residential uses shall not exceed the following height above grade, where grade is measured from the highest adjacent finished ground level, or in the case of fencing within a required yard area abutting a public street, from the finished grade on the side nearest the street.

(1) Within Front or Street-Side Yard Setback: three feet, except the following additional height is allowed for properties located within an industrial zone:

(a) A fence or wall may be constructed to a maximum height of six feet where the fence is setback behind the front or street side property line behind a five-foot landscape buffer.

(b) A fence or wall may be constructed to a maximum height of eight feet where the fence or wall is setback behind the front or street side property line behind a 10-foot landscape buffer.

(c) Where approved by the Planning Official, a fence constructed of open chain link or other “see-through” composition that allows 90 percent light transmission may reach a height of up to six feet without any landscape buffer.

(2) Within an Interior Side or Rear Yard Setback: eight feet.

C. All Zones. Fences and walls shall comply with the vision clearance standards of subsection 18.50.220.6. Other provisions of this Code, or the requirements of the roadway authority, may limit allowable height of a fence or wall below the height limits of this section.

4. Materials.

- A. Permitted fence and wall materials include weather-treated wood; untreated cedar and redwood; metal (e.g., chain link, wrought iron, and similar fences); bricks, stone, masonry block, formed-in-place concrete, or similar masonry; vinyl and composite (e.g., recycled) materials designed for use as fencing; and similar materials as determined by the Planning Official. In addition, evergreen hedges are considered screening walls for the purpose of this section, subject to Site Design Review approval.
- B. Prohibited fence and wall materials include straw bales, tarps, barbed or razor wire (except in an Industrial zone); scrap lumber, untreated wood (except cedar or redwood), corrugated metal, sheet metal, scrap materials; dead, diseased, or dying plants; and materials similar to those listed herein.

5. **Permitting.** A land use permit is not required to install a fence or wall that is in accordance with these standards. The decision-making body may require installation of walls or fences as a condition of approval for development, as provided by other Code sections. A building permit may be required for some fences and walls, pursuant to applicable building codes.

6. **Maintenance.** Fences and walls shall be maintained in good condition, or otherwise replaced by the property owner.

18.50.320 Exterior Lighting

In all districts, any operation or activity producing glare shall be so conducted that direct or indirect light from the source shall not spillover to any property in a residential district, other than the lot on which the glare is generated.

- 1. **Exemptions.** This section is not intended to apply to public street lighting.
- 2. **Exterior Lighting Plan.** At the time any exterior lighting is installed or substantially modified, an exterior lighting plan shall be submitted that identifies the following:
 - A. Location of light fixtures.
 - B. Type of luminaire.
 - C. Height of luminaire.
 - D. Maximum illumination.
 - E. Cut-off angle.

18.50.400 Parking, Loading, and Drive-Through Queues

- 1. Purpose.** This section contains requirements for automobile and bicycle parking, as well as standards for loading and drive-through uses. It provides standards for the minimum number of parking spaces for various use types, along with the location, size, and design of parking, loading, and drive-through areas to ensure such areas can be accessed safely and efficiently.
- 2. Applicability.** The regulations of this section apply to all parking areas in all zones, whether parking is required by this Code or put in for the convenience of property owners or users.
- 3. Occupancy.** All required parking areas must be developed in accordance with the requirements of this code prior to occupancy of any structure on the subject site; for phased project, the required parking must be developed prior to occupancy of structures within the applicable phase. Where landscaping, screening or other improvements are required pursuant to this Code, all such improvements must be installed and approved by the Planning Official or their designee prior to occupancy.
- 4. Calculations of Amounts of Required and Allowed Parking.**
 - A.** When computing parking spaces based on gross floor area, parking structures and non-leasable floor spaces, such as storage closets, mechanical equipment rooms, and similar spaces, are not counted.
 - B.** When there are two or more separate uses on a site, the minimum parking for the site is the sum of the required parking for the various individual uses. For shared parking, see subsection 18.50.420.3 below.
- 5. Proximity of Parking to Use.** Required parking spaces for residential uses must be located on the site of the use or on a parcel or tract owned in common by all the owners of the properties that will use the parking area. Required parking spaces for nonresidential uses must be located on the site of the use or in a parking area that has its closest pedestrian access point within 300 feet of the site.
- 6. Improvement of Parking Areas.** Motorized vehicle parking is allowed outside the public right-of-way within garages, carports, and other approved structures; and on driveways or parking lots that have been developed in conformance with this Code. This section does not apply to on-street parking within the public right-of-way.

18.50.410 Automobile Parking

- 1. Minimum Number of Off-Street Automobile Parking Spaces.** Except as provided by subsection 18.50.410.3, or as required for Americans with Disabilities Act compliance under subsection 18.50.410.6, off-street parking shall be provided pursuant to one of the following three standards:
 - A.** The standards in Table 18.50.410.1;

- B. A standard from Table 18.50.410.1 for a use that the Planning Official determines is similar to the proposed use; or
- C. Subsection 18.50.410.2 Exceptions and Reductions to Off-Street Parking, which includes a Parking Demand Analysis option.

**Table 18.50.410.1
Off-Street Parking Spaces by Use**

Land Use Category	Unless Otherwise Stated, Parking Standards are Based on Gross Floor Area, and Except as Noted Under Section 18.50.415(3)(A)	
	Minimum Number of Required Parking Spaces	
Residential Uses		
Dwellings:		
Detached Single-Family	2 spaces	
Duplex	4 spaces	
Tri-Plex	5 spaces	
Four or More Units	1.5 spaces per unit, plus one space for each four units to be reserved for recreational vehicles	
Accessory Dwelling Unit (ADU)	No additional spaces required for single ADU on single parcel	
Group Quarters:		
Retirement or Congregate Living Facilities	0.5 spaces per resident	
Nursing Home / Long-Term Care Facilities	1 space per 4 beds	
Dormitories	1 space per 4 beds	
Residential Facilities	1 space per 6 beds	
Commercial / Service / Employment Uses		
Retail Sales	1 space per 250 square feet	
Personal Services (e.g., barber/salon, spas, tattoo parlors)	2 spaces per station, or 1 space per 250 square feet, whichever is less	
Eating and Drinking Establishment w/o Drive-Through	1 space per 100 square feet	

Eating and Drinking Establishment w/ Drive-Through	1 space per 100 square feet, plus 3 stacking spaces for drive-through
Entertainment Establishment	1 space per 3 persons at maximum design occupancy
Professional Offices Except Medical Services	1 space per 400 square feet
Medical Services (excluding hospitals)	1 space per 200 square feet
Financial Services w/o Drive-Through	1 space per 400 square feet
Financial Services w/ Drive-Through	1 space per 400 square feet, plus 3 stacking spaces for each drive-through
Repair Services (non-vehicle)	1 space per 700 square feet
Vehicle Rentals, Sales, Repair Services	2 spaces per service bay, plus 1 space per 500 square feet of general building floor area, plus 1 space per each 2,000 square feet of outdoor vehicle sales or rental area
Overnight Accommodations	0.8 spaces per guest room
Manufacturing & Materials Processing	1 space per 500 square feet
Warehousing, Logistics, and Storage	1 space per 2,000 square feet
Public / Community / Institutional Uses	
Pre-School, Day Care Center	1 space per employee, plus 1 space per 5 children the facility is designed or intended to accommodate
Elementary and Middle Schools	1 space per classroom plus 1 space per administrative employee, or 1 space per four seats or 8 feet of bench length in the auditorium or assembly room, whichever is greater, or 1 space per four seats or 8 feet of bench length in the auditorium or assembly room, whichever is greater
High Schools, Colleges, Trade Schools	1 space per each 5 students, based on the design capacity of the facility
Faith Institutions	1 space per four seats or 8 feet of bench length in the main auditorium
Hospital	1 space for each two beds
Libraries, Museums	1 space per 400 square feet
Community & Multi-Use Buildings	1 space per 6 persons at maximum design occupancy
Golf Course	4 spaces per hole, plus 70 percent of spaces otherwise required for accessory use areas (e.g., bar, restaurant, pro shop)
Driving Range	1 space per tee/hitting bay
Membership Clubs (social, fraternal, recreation, sports, etc.)	1 space per 4 persons at maximum design occupancy

2. Exceptions and Reductions to Off-Street Parking.

- A. There is no minimum number of required automobile parking spaces for uses within the Downtown Core Overlay zone.
- B. An applicant may propose a parking standard that is different than the standard under subsections 18.50.410.1 and 18.50.410.2, above, for review and action by the Planning Official through a Type II procedure. The applicant's proposal shall consist of a written request and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors.

In addition, the decision-making body, through a Type II procedure, may reduce the off-street parking standards of Table 18.50.410.1 for sites with one or more of the following features:

- (1) Site has a bus stop with frequent transit service located adjacent to it, and the site's frontage is improved with a bus stop waiting shelter, consistent with the standards of the applicable transit service provider: Allow up to a 10 percent reduction to the standard number of automobile parking spaces;
 - (2) Site has dedicated parking spaces for carpool or vanpool vehicles: Allow up to a 10 percent reduction to the standard number of automobile parking spaces;
 - (3) Site has dedicated parking spaces for two-wheeled vehicles: Allow reductions to the standard dimensions for parking spaces, up to five percent of the total required parking.
- C. The number of required off-street parking spaces may be reduced through the provision of shared parking, pursuant to subsection 18.50.410.3, below.

3. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. Shared parking requests shall be subject to review and approval through Site Plan Review.

4. Parking Stall Design and Minimum Dimensions. Where a new off-street parking area is proposed, or an existing off-street parking area is proposed for expansion, the entire parking area shall be improved in conformance with this Code. At a minimum the parking spaces and drive aisles shall be paved with asphalt, concrete, or other City-approved materials, provided the Americans with Disabilities Act requirements are met, and shall conform to the minimum

dimensions in Table 18.50.410.4. All off-street parking areas shall contain wheel stops, perimeter curbing, bollards, or other edging as required to prevent vehicles from damaging buildings or encroaching into walkways, landscapes, or the public right-of-way. Parking areas shall also provide for surface water management, pursuant to Section 18.40.030.

**Table 18.50.410.4
Parking Space Minimum Dimensions***

Parking Angle	Space Width	Space Length	Drive Aisle Width (1-Way)	Drive Aisle Width (2-Way)
90 degrees	9 feet	19 feet	24 feet	24 feet
60 degrees			16 feet	
45 degrees			12 feet	
Parallel	8 feet	24 feet	12 feet	

*See also, Section 18.50.130 Commercial Building Orientation and Design for parking location requirements; Section 18.50.220 Vehicular Access and Circulation for driveway standards; and Section 18.50.300 for requirements related to Landscaping, Screening, Fences, Walls, and Outdoor Lighting.

- 5. Adjustments to Parking Area Dimensions.** The dimensions in subsection 18.50.420.4 are minimum standards. The decision-making body may adjust the dimensions based on evidence that a particular use will require more or less maneuvering area.
- 6. Americans with Disabilities Act (ADA).** Parking shall be provided consistent with ADA requirements, including, but not limited to, the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other design and construction requirements.

18.50.415 Bicycle Parking

- 1. Standards.** Bicycle parking spaces shall be provided with new development and, where a change of use occurs, pursuant to the standards in Table 18.50.415.1. Where an application is subject to Conditional Use Permit approval or the applicant has requested a reduction to an automobile-parking standard, pursuant to subsection 18.50.410.2, the decision-making body may require bicycle parking spaces in addition to those in Table 18.50.415.1.

**Table 18.50.415.1
Required Bicycle Parking**

Use	Minimum Number of Spaces
Multifamily Residential (not required for parcels with fewer than 4 dwelling units)	2 bike spaces per 4 dwelling units that do not have garages
Commercial	1 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater
Industrial	No bike parking is required (the code assumes most industrial uses have room inside industrial buildings for bike parking)
Parks	4 bike spaces for parks one acre or less; 8 spaces for parks greater than one acre
Schools (all types)	3 bike spaces per classroom
Institutional Uses and Places of Worship	2 bike spaces per primary use or 1 per 20 vehicle spaces, whichever is greater
Other Uses	1 bike spaces per primary use or 1 per 20 vehicle spaces, whichever is greater

2. **Design.** Bicycle parking shall consist of steel racks or lockers. For uses that require site design review, the application shall include a design typical for the style of bike rack being proposed.
3. **Exemptions.** This section does not apply to single-family and duplex housing, home occupations, and agricultural uses. The decision-making body may exempt other uses upon finding that, due to the nature of the use or its location, it is unlikely to have any patrons or employees arriving by bicycle.
4. **Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with the vision clearance standards of subsection 18.50.220.6

18.50.420 Loading Areas

1. **Purpose.** The purpose of Section 18.50.420 is to provide adequate loading areas for commercial and industrial uses that do not interfere with the operation of adjacent streets.
2. **Applicability.** This section applies to uses that are expected to have service or delivery truck visits. It applies only to uses visited by trucks with a 40-foot or longer wheelbase, at a frequency of one or more vehicles per week. The decision-making body shall determine through Site Design Review the number, size, and location of required loading areas, if any.
3. **Standard.** Where an off-street loading space is required, it shall be large enough to accommodate the largest vehicle that is expected to serve the use without obstructing vehicles or pedestrian traffic on adjacent streets and driveways. The decision-making body may restrict

the use of other public rights-of-way, so applicants are advised to provide complete and accurate information about the potential need for loading spaces.

4. **Exceptions and Adjustments.** The decision-making body, through Site Design Review, may approve a loading area adjacent to or within a street right-of-way where it finds that loading and unloading operations are short in duration (i.e., less than one hour), infrequent, do not obstruct traffic during peak traffic hours, do not interfere with emergency response services, and are acceptable to the applicable roadway authority.

18.50.425 Drive-Through Queues

Drive-through uses shall provide off-street queuing area for at least five vehicles. Not less than two queuing spaces shall be available before any menu or customer interaction locations. Multiple drive-through lanes can count in combination to satisfy the queuing requirements. Required queuing shall not block circulation or access to any required off-street parking.

18.50.500 Signs

1. **Purpose.** The purpose of this section is to regulate the placement, size, and appearance of signs in the City of Burns.
2. **Applicability.** The regulations in this section apply to the installation of all new signs, as defined in Section 18.10.070. A sign permit shall be obtained from the Planning Official prior to the construction or placement of any new sign.
3. **Exemptions.** The following are exempt from the provisions of this section:
 - A. Signs not oriented toward or intended to be legible from a public right-of-way, private road, or other private property.
 - B. Signs inside a building, except for strobe lights visible from a right-of-way, private road, or other private property.
 - C. Street and traffic signs legally erected in the right-of-way.
 - D. Building numbers as required by the City of Burns.
 - E. Signs carved into or part of materials, which are an integral part of the building.
 - F. Government, fraternal, civic, or religious organization flags on permanent flag poles, which are designed to allow raising and lowering of flags.
 - G. Painted wall decorations and painted wall highlights.
4. **Prohibited Signs.** The following types of signs are prohibited.

- A. Off-premise signs (i.e., signs advertising products or services that are not sold or offered on the site at which the sign is located).
 - B. Strobe lights and signs containing strobe lights, which are visible beyond the property lines.
 - C. Signs placed on or painted on a motor vehicle trailer and parked with the primary purpose of providing a sign not otherwise allowed for by this code.
 - D. Signs constructed in the public right-of-way in whole or in part, except signs legally erected for informational purposes by or on behalf of a government agency. Overhead signs shall be a minimum of 14 feet above a sidewalk and shall not extend into the street and the owner agrees to hold the City harmless of any claims resulting thereof from the signs.
 - E. Signs placed on rooftops exceeding the 35-foot building height limitation.
 - F. Flashing or blinking light rooftop signs, excluding seasonal decorations.
- 5. Non-Conforming Signs.** All existing signs, including billboards, that do not conform to the specific standards of this Code may be considered legal nonconforming pursuant to Section 18.10.055 if the sign was erected in conformance with a valid permit and complied with all applicable laws at the time of the sign's installation. All nonconformities shall be subject to the requirements of Section 18.10.055.
- 6. Abandoned Signs.**
- A. Any sign the no longer contains legible visible images or text shall be considered abandoned. Within 12 months following the date of abandonment, an abandoned sign and its supporting structure shall be removed by the owner of the sign or owner of the premises on which the sign is located.
 - B. Any owner of an abandoned sign which is otherwise in conformance with this Section may apply to the Planning Director for an extension of the removal date. If the Planning Official determines that the continued maintenance of the sign is consistent with the purpose of this code, an extension of up to one year may be granted.
 - C. Any nonconforming, abandoned sign must be removed within six months. No extension of time is available.
- 7. Signs in Residential Districts.** The following signs are permitted within all residential zones.
- A. One nonilluminated name plate, not to exceed one and one-half square feet in area, placed flat against the building for each dwelling containing a home occupation.
 - B. One temporary nonilluminated sign not to exceed five square feet in area pertaining to the lease, rental, or sale of a building or premises upon which it is located.

- C. One bulletin board not to exceed 12 square feet in area for each church, public library, neighborhood, or community center.

8. Signs in Commercial and Employment Districts.

- A. One square foot of sign face area is allowed for each lineal foot of property frontage on a public right-of-way, excluding alleys.
- B. The sign(s) must be placed in a manner to be viewed from the public right-of-way frontage used in the sign face area computation.
- C. The maximum sign face area is 100 square feet. Property frontage of less than 32 lineal feet shall be allowed a maximum sign face area of 32 square feet.
- D. Sandwich board signs and other temporary signs readily placed on or near public rights-of-way advertising an ongoing commercial enterprise shall not be permitted. The exceptions to this provision will be signs advertising temporary garage sales and community service or other public agency functions, e.g., high school car washes or service club activities. These signs shall be removed within 48 hours after activity has ended. Signs shall not be placed on utility poles.

- 9. Signs in Open Space Districts.** Signs in Open Space Districts may be permitted as part of a Type II – IV level of review. The approving authority shall determine the size and location of all proposed signs are appropriate for the intended use and function of the open space.