

## PLANNING COMMISSION AGENDA

February 9, 2012  
7 p.m. Regular Meeting  
Newberg Public Safety Building  
401 E. Third Street

### I. CALL MEETING TO ORDER

### II. ROLL CALL

### III. CONSENT CALENDAR (items are considered routine and are not discussed unless requested by the commissioners)

1. Approval of January 12, 2012 Planning Commission Meeting Minutes

### IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person)

1. For items not listed on the agenda

### V. WORKSHOPS

1. **Wineries, brewers and distilleries:** Review Newberg's current zoning regulations, discuss the reasons to consider changing the regulations, and review some of the issues that should be addressed.
2. **Zoning use table changes:** Discuss the process of updating the zoning use tables. Staff is asking for general direction from the Commission on the objectives, style, and process for making such a change.

### VI. ITEMS FROM STAFF

1. Update on Council items
2. Other reports, letters, or correspondence
3. Next Planning Commission Meeting: March 8, 2012

### VII. ITEMS FROM COMMISSIONERS

### VIII. ADJOURN

FOR QUESTIONS PLEASE STOP BY OR CALL 503-537-1240, PLANNING & BUILDING DEPT. - P.O. BOX 970 - 414 E. FIRST STREET

#### **ACCOMMODATION OF PHYSICAL IMPAIRMENTS:**

*In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TRS services please dial 711.*

**PLANNING COMMISSION MINUTES**

**January 12, 2012**

**7:00 p.m. Regular Meeting**

**Newberg Public Safety Building**

**401 E. Third Street**

TO BE APPROVED AT THE FEBRUARY 9, 2012 PLANNING COMMISSION MEETING

**I. CALL MEETING TO ORDER:**

Vice Chair Thomas Barnes opened the meeting at 7:00 p.m.

**II. OATH OF OFFICE FOR NEW COMMISSIONERS:**

Mayor Bob Andrews read the Affirmation of Office and swore in Commissioners Cathy Stuhr and Philip Smith; to serve on the Planning Commission from January 12, 2012 – December 31, 2014.

**III. ROLL CALL:**

Present:	Thomas Barnes	Philip Smith
	Art Smith	Lon Wall
	Allyn Edwards	Gary Bliss
	Cathy Stuhr	Mayor Bob Andrews, Ex-Officio
	Kale Rogers, Student PC	

Staff Present:	Barton Brierley, Building & Planning Director
	Steve Olson, Associate Planner
	Jessica Nunley, Assistant Planner
	Sonja Johnson, Environmental Specialist
	DawnKaren Bevill, Minutes Recorder

**IV. CONSENT CALENDAR:**

1. Election of Chair and Vice Chair for one year.

**MOTION #1: Philip Smith/Art Smith** moved to elect Thomas Barnes as Chair and Cathy Stuhr as Vice Chair. Motion carried (7 Yes/ 0 No/ 0 Absent).

2. Approval of the December 8, 2011 Planning Commission Meeting Minutes

Chair Barnes entertained a motion to accept the minutes of the December 8, 2011 meeting.

**MOTION #: Allyn/Stuhr** approve the minutes from the Planning Commission Meeting of December 8, 2011 as amended. Motion carried (7 Yes/ 0 No/ 0 Absent).

**V. COMMUNICATIONS FROM THE FLOOR:**

No items were brought forward.

## **VI. LEGISLATIVE PUBLIC HEARING:**

**APPLICANT: City of Newberg**

**REQUEST: Proposed Stormwater and Erosion Control codes** to implement the Willamette River EMDL Plan. The Willamette River TMDL (Total Maximum Daily Load) Implementation Plan is an agreement between DEQ and the City to protect the Willamette River from illicit discharges and adverse effects from stormwater runoff. The proposed stormwater and erosion control codes are intended to implement the plan and control the adverse effects of stormwater and erosion.

**RESOLUTION NO.:** 2012-296

**Opening of the Hearing:** Chair Barnes opened the hearing, which is continued from the Planning Commission Meeting of December 8, 2011, at the point of deliberation and asked staff for comments.

Sonja Johnson stated all information was included in the meeting packet.

### **Public Testimony:**

Mr. Mike Gougler apologized first of all for not being in attendance at previous meetings regarding the stormwater issue. As a member of the Citizen Rate Review Committee (CRRC), it must be determined, based on information provided by the consultant, whether or not the current rates meet the capital improvement expenditures as well as operating expenses for the various utilities. In the last two CRRC meetings, they discussed stormwater and what rates to establish to meet the obligations of the City of Newberg and what the citizens will be charged. In reviewing the proposed stormwater and erosion control code, he is left with the impression that what is being considered is something slightly more difficult to manage than an unfunded mandate. Normally with an unfunded mandate such as No Child Left Behind, private and public actuaries get together and estimate, due to desired outcomes by the mandate, how much it will cost to accomplish those goals. Mr. Gougler believes the desired outcomes for this proposal are not specified. According to the Planning Commission Meeting Minutes of October 13, 2011, the Department of Environmental Quality (DEQ) stated the Total Maximum Daily Load (TMDL) parameters the City of Newberg needed to be concerned with were stream temperature, mercury, and bacteria. A large percentage of the body of the work staff did is related to erosion control, solids in streams, and effluent run-off. The difficulty is determining what we are measuring it against. How do we know we meet a sediment control goal if we do not know how much sediment flows during several months of the year in the Willamette River? The answer is uncertain, yet the City of Newberg is being asked to control it. This is also the case with stream temperature. DEQ should have been asked to supply a chart of benchmark stream temperatures in the Willamette River. DEQ does not know how much heat is carried into the Willamette River from the various sources. Mr. Gougler asked how to budget for the correction of a perceived problem when there is no benchmark to measure against. There a number of questions that relate and if not properly answered will cost the City and the citizens a lot of money. For instance, requiring a Stormwater Retention Plan in a small development. The Director determines what type of stormwater management is needed and then the obligation to maintain that facility will be the owner's responsibility, although "owner" has not been defined. Is the owner the developer? If so, the developer will be gone at some point which leaves it in the hands of the homeowner. If there is a homeowner's association, which this does not require, then the association's obligation will be to maintain the facility. When a homeowner's association is made up of numerous individual families who have an undivided obligation to maintain the facility, which will collect it? If the Director determines there has been a violation, who will be fined? Mr. Gougler stated due to undefined, unspecific methods, eventually the citizens of Newberg will all have to pay because it will become a budget item. As a developer, he sends the 1200-C permit off to DEQ, which has specifics. In this proposal, the first obligation is given to the City of Newberg which he is not in favor of due to the cost. It makes better sense for this entire body of rules to be vetted at the state level where it can be staffed and judged the same as large projects. How will the City pay for the Director's time it takes him to work on it? He is concerned with what this will cost the City in the future.

**Discussion:**

Commissioner Wall shares the same concerns as Mr. Gougler, although staff has stated they are not doing more than is being required by DEQ. He asked Mr. Gougler to tell him why this proposal should be put off. Mr. Gougler is not advocating pushing this proposal off but suggested the report include how to determine whether the City has or has not been successful regarding compliance as well as whether the City will be required to pass on 1200-C permits to the state or will that be the responsibility of the developer.

Commissioner Stuhr stated she recently asked a friend who is a stormwater expert to help her in sorting out the stormwater issues, and the sense she received from her friend is exactly what Mr. Gougler has stated. However, her friend made it clear there are no specific measures given by the state, which only looks forward and does not address the past. Commissioner Stuhr agrees defining who the owner is and who is responsible is important. Mr. Gougler stated DEQ is requiring the City of Newberg to implement measures to address these problems; giving the City the authority to do so. DEQ is satisfied with that, but the City of Newberg can also establish for its own purposes the measures in meeting its goals.

Commissioner Edwards agreed there is no way to gauge if the City is successful or not. He sees the anger of citizens with the increase in rates and now the question is who will be going out to be sure compliance is achieved. Sonja Johnson stated DEQ sampled and/or polled data from other agencies and did their own sampling at various spots, one near Newberg, so there is some data in regard to what is out there. The DEQ Willamette TMDL Report states that basin-wide for the Willamette bacteria needs to be decreased by 80% to meet water quality standards. Mercury needs to be decreased by 27% and the soil needs to be kept in place. The report also provides ways they believe are best management practices to attain these goals and they are primarily to reduce stormwater volume, reduce stormwater velocity, increase shading near streams to keep the streams cooler, and to keep the stream vegetation in place. In regard to knowing what the benchmark is, when the regulations are implemented, the City will do the measures DEQ has asked as well as starting a monitoring program where samples are take above and below the city limits to see what the City of Newberg is putting into the Willamette River. Mr. Gougler stated a basin study should be developed and paid for by the state.

Commissioner Philip Smith understands Mr. Gougler's concerns regarding standards and compliance. He believes this proposal should be adopted but it would be money well spent now in protecting the City long term to test the sediment and temperature of the Newberg watershed so a standard can be established.

Commissioner Art Smith stated the requirement needs to be met but is concerned about approving it without a particular standard. He is not optimistic of receiving the standard from the state.

Commissioner Bliss is concerned with how this is approached. If the City is given a mandate to meet a certain percentage and then create a baseline, the state could later argue that the City is not doing enough.

Chair Barnes closed the public testimony at 7:58 p.m. and asked for comments from staff.

**Staff Comments:**

Sonja Johnson stated the City of Newberg is behind schedule regarding the TMDL. When the code is passed, staff will need time to implement the code and there are costs associated with that down the road and it will affect the stormwater fee. Mr. Gougler is correct in saying it is an unfunded mandate.

**Deliberation:**

Commissioner Stuhr stated the discussion of sampling and developing a baseline is exactly why the regulations are written the way they are. It takes time to establish and implement the practices. However, she would like to be convinced the City is doing only the minimal required. Can 500 square feet be larger? What about

ownership? She wants those questions to be answered before it is passed on to City Council. Also, consider if the City can do an estimate of costs for the future.

Kale Rogers stated there is no information in the packet regarding success. It says just to implement and he does not see adding to rates now if it is not needed in the future. Doing the least amount possible is most cost effective at this time.

Commissioner Edwards asked whether the state obtained the measurements. Sonja Johnson replied the state sampled and gathered historical data for the Willamette River and they used that to determine if the Willamette was achieving the water quality standards and sampled where there was no data found.

Chair Barnes asked Ms. Johnson if data was obtained from Newberg creeks. Ms. Johnson stated the data was used from creeks that had defensible data, but not from the three creeks located in Newberg.

Commissioner Bliss still has a problem with the 150% costs falling on the developer. Sonja Johnson stated she had asked legal counsel regarding that percentage and Mr. Mahr was of the opinion the City does need a deterrent and 150% is acceptable. There have been instances where people either cannot or will not do what is asked by the City which then causes a cost to the City to clean up. The City needs a deterrent to keep that from happening in the future. Commissioner Bliss understands the percentage is for penalty purposes.

Ms. Johnson stated in regard to ownership, many other cities in the area have allowed private stormwater facilities as has Newberg, and some are not being maintained, just as Mr. Gougler had stated. The City of Newberg is proposing to require that a maintenance agreement go along with the deed. When a developer brings a subdivision in to be platted, the City will require an Operations and Maintenance Plan for the stormwater facility. That is included in the proposal in Section 13.35.06 (b).

**MOTION #3: Wall/P. Smith** moved to adopt Resolution 2011-296. Motion carried (7 Yes/ 0 No/ 0 Absent).

Commissioner Philip Smith asked that a recommendation be made to the City Council regarding exploring the idea of quantitative research. Perhaps a grant would be available for the research

**MOTION #4: P. Smith/Art Smith** moved to amend the motion by removing the last 4 words of the sentence on page 26; Section 13.30.16. Motion carried (7 Yes/ 0 No/ 0 Absent).

Chair Barnes recessed for 6 minutes at 8:36 p.m.

## **VII. QUASI-JUDICIAL PUBLIC HEARING**

**APPLICANT:** Mart Storm

**REQUEST:** Approval of the Thorne Park Subdivision (four lots)

**LOCATION:** Adjacent to 1800 E. Mountainview Drive

**TAX LOT:** 3217BA-00300

**FILE NO.:** SUB3-08-009

**ORDER NO.:** 2012-01

**CRITERIA:** 15.235.060

### **Opening of the Hearing:**

Chair Barnes read ORS §197.763 and opened the hearing. He asked the Commissioners for any abstentions, conflicts of interests, or objections to jurisdiction. Commissioner Bliss visited the site yesterday and today and but had no contact with the owner. Commissioner Philip Smith goes by the site but has had no contact with the

owner. Commissioner Stuhr stated if there is a feeling or impression it should be brought up at this point to give the applicant the time to respond to it.

Commissioner Bliss expressed in visiting the site on two occasions and reviewing the maps, he found the maps inadequate which did not meet the code and showed no existing trees, hedge, or retaining wall; the contours do not conform to what is on the site.

Commissioner Edwards and Chair Barnes both pass the property daily but they have no bias.

Jessica Nunley presented the staff report (see official meeting packet for details), and used a PowerPoint presentation. The applicant recently has done a lot line adjustment. Improvements will be substantially complete, and the developer will make a payment-in-lieu for remainder of required improvements. Each lot meets the required area and width standard.

**Staff Recommendation:** Ms. Nunley stated staff asks the Planning Commission to adopt Order 2012-01 which approves the requested subdivision tentative plat with the finding shown in Exhibit "A" and the condition of approval shown in Exhibit "B".

Chair Barnes opened public testimony.

#### **Public Testimony:**

**Proponents:** Matt Storm made himself available to answer concerns or questions posed by the Commissioners.

Chair Barnes asked about the drainage depth for the sanitary sewer on lot #4. Mr. Storm replied the sanitary storm on Thorne Street is at 15 feet.

Commissioner Philip Smith asked about the 1% slope on a sewer drain. Commissioner Bliss stated ½ of 1% is acceptable.

Chair Barnes asked in regard to drainage into Hess Creek; who maintains that? Mr. Storm replied there will be individual lines for each lot and they will not share the same pipe. Each property owner will be responsible for their own line. One of the conditions is to design and construct an approved facility there but he is not sure about whether it will have a water quality feature in it; will only be hooked to roof and low-point drains. He is unsure as to the requirements. Chair Barnes stated the concern is to not disturb the sediment in Hess Creek. Ms. Nunley stated each homeowner will maintain it and there are different ways it can be mitigated.

Chair Barnes closed the public testimony at 8:57 p.m. and asked for comments from staff.

#### **Discussion:**

Commissioner Bliss asked staff how the stream corridor map was established. Barton Brierley replied the stream corridor was developed in the mid 1990's and the stream corridor was mapped by engineers based on elevations. They took site visits and used aerial photographs. Most of it was based on a vegetation line. Commissioner Bliss stated there is a 21-foot difference in elevation from the east side to the west side. He asked what frequency it was based on. Mr. Brierley stated it was based on the 100 year flood plain and a 1% chance per year that it will flood. Commissioner Bliss disagreed as there is a 25-foot elevation difference. Why was the flood plain boundary not required as in the code? Mr. Brierley replied it is a condition. Mr. Storm was on the stream corridor committee and explained that it was established 50 feet from the low water level and then a consultant was hired to draw a line based on that. In most cases they exceeded 50 feet. He believes it has been shown on the plat and will see to the correction.

**Staff Comments:**

Staff recommends adoption with the change to the grading condition noted.

**MOTION #5: Wall/Stuhr** moved to approve Planning Commission Order No. 2012-01 with conditions and requirements stated by staff.

**Discussion:**

Commissioner Bliss cannot support the motion due to the topography which does not reflect what is in the field. Fences, trees, and a retaining wall are not shown on the map, which is required in the code. The preparer, surveyor, and owner are not shown on the map. Chair Barnes understands the flooding concern, but Exhibit “B” shows a retaining wall which is on the neighbors property.

Commissioner Wall asked who supplied the map. He does not want to punish the applicant if the applicant is not at fault. Ms. Nunley stated the property owner/developer supplied the map and she stated staff’s contours match up with the property owner. This application requires no site grading, which is why there is no grading plan, and the lots are relatively level in that area.

Commissioner Bliss agrees he does not want to penalize the applicant, but asked where the Planning Commission should draw the line. The code needs to be met.

Commissioner Stuhr stated those items can be added to the conditions before it moves forward. Commissioner Bliss would rather see it resubmitted.

Commissioner Edwards agrees with setting a precedent and staff needs to be more aware of the paperwork as the code calls for, but the applicant should not be penalized.

Commissioner Smith stated he will vote in favor of the application with the proper preliminary plat as a condition.

**VOTE ON MOTION #5:** Motion carried (5 Yes/ 2 No [Bliss, Wall]/ 0 Absent).

**VIII. OLD BUSINESS:  
REVIEW OF PLANNING COMMISSION GUIDELINES:**

**MOTION #6: Art Smith/Wall** moved to pass Resolution 2012-297. Motion carried (7 Yes/ 0 No/ 0 Absent).

**IX. ITEMS FROM STAFF:**

Update on Council items:

Barton Brierley stated the McClure property was appealed to the Court of Appeals and the McClure’s have now asked to withdraw the subdivision and annexation application.

The next Planning Commission Meeting is scheduled for Thursday, February 9, 2012.

**X. ITEMS FROM COMMISSIONERS:**

Commissioner Philip Smith stated he has concerns about the issue Mr. Gougler brought up in testimony regarding best management practices by DEQ. It is disturbing that the City is asked to make improvements but is unaware of what the targets are. The Stormwater proposal has been passed but he would still like to have it

communicated to the City Council the need for having specific standards which can be adopted and put into the code. The effects of the three Newberg streams should be measured, and can we get a grant to do so.

**MOTION #7: Philip Smith/Wall** moved to ask staff to speak to Terry Mahr, City Attorney regarding research to acquire the Stormwater standards which is advantageous to the City and should be placed into the code. Motion carried (7 Yes/ 0 No/ 0 Absent).

Commissioner Stuhr suggested a member of the Planning Commission attend the City Council meeting to speak about the concerns before Sonja Johnson makes the presentation to City Council.

**XI. ADJOURN:**

Chair adjourned the meeting at 9:45 p.m.

**Approved by the Planning Commission on this 9<sup>th</sup> day of February, 2012.**

**AYES:**

**NO:**

**ABSENT:**

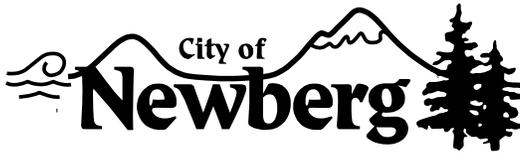
**ABSTAIN:**

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*Planning Recording Secretary*

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*Planning Commission Chair*



## Planning and Building Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132  
503-537-1240 ▪ Fax 503-537-1272 ▪ [www.newbergoregon.gov](http://www.newbergoregon.gov)

### PLANNING COMMISSION STAFF REPORT WORKSHOP: WINERIES, BREWERIES & DISTILLERIES

MEETING DATE: February 9, 2012

FILE NO: DCA-12-001

TOPIC: Workshop on Wineries, Breweries & Distilleries – Allowed zones & development standards

- A. SUMMARY:** At your February 9, 2012 meeting you will have a workshop on winery, brewery and distillery (WBD) zoning regulations in Newberg. Our current code is very restrictive for WBD uses. Staff believes that a more flexible WBD code could benefit the city without creating negative impacts. The purpose of the workshop is to review our current zoning regulations for these uses, discuss the reasons why we should consider changing our zoning regulations, and review some of the issues that should be addressed. The Planning Commission is not expected to take any action on this item at this meeting; we will ask the City Council to initiate a development code amendment process at a later date. We hope that this workshop and discussion will help us take the next steps towards developing a suggested code amendment.
- B. BACKGROUND: Current zoning regulations for WBD in Newberg**
- **Most Industrial zones:**
    - WBD are not listed as allowed uses in the M-1 (Limited Industrial) and M-2 (Light Industrial) zones. M-2 is our most common industrial zone. WBD are allowed in the M-3 (Heavy Industrial) zone. Most of the M-3 zone is the city wastewater treatment plant.
    - WBD could be allowed if the Planning Director determines they are similar to allowed uses. Breweries are fairly similar to bakeries; M-2 allows wholesale and retail bakeries. M-1 and M-3 do not allow bakeries. M-1 and M-2 allow restaurants; brewpubs can be fairly similar to restaurants or taverns.
    - WBD could be approved as conditional uses in M-2; alcoholic beverage production has been grouped with sauerkraut, vinegar and yeast processing.
  - **M-4 (Large Lot Industrial):** Newberg adopted a new M-4 industrial zone and definitions for WBD a couple of years ago (excerpts below). The M-4 designation has not been applied to any land yet, and is intended for the southeast industrial expansion. The WBD definitions are clear and avoid unnecessary detail. The WBD uses were seen as desirable uses in M-4 as long as the retail component remained a minor part of the use.

### 15.05.030 Definitions.

“**Wineries, breweries, and distilleries**” means manufacturing, processing, and packaging of alcoholic and nonalcoholic beverages. The external impact from these uses is typically limited to outdoor storage of materials. These uses include a warehouse and distribution element, with goods being shipped out to retail markets. There also may be a retail element to these uses with goods being sold and/or consumed on site.

### 15.325.020 Permitted buildings and uses.

In the M-4 industrial employment district, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code:

#### A. Industrial Employment Subdistrict.

16. Wineries, breweries and distilleries; provided, that the floor area dedicated to retail sales, displays, tasting, or similar customer-related activities is less than 25 percent of the gross square feet of the total use. In no case shall any customer-related space or retail floor area exceed 5,000 gross square feet.

#### ➤ **Commercial zones:**

- WBD are not listed as allowed uses in C-1 (Neighborhood Commercial), C-2 (Community Commercial, primarily found along Portland Road), or C-3 (Central Business District Commercial).
- Breweries and brewpubs are allowed uses in C-4 (Riverfront Commercial).
- WBD could be allowed in commercial zones if the Planning Director determines they are similar to allowed uses. Breweries are fairly similar to bakeries; C-1 allows retail bakeries, C-2 allows wholesale and retail bakeries, and C-3 allows retail bakeries. All commercial zones allow restaurants.
- The Planning Director made an interpretation in 2011 that a small brewpub could be allowed in C-2 as similar to a retail bakery (production) and tavern (on site consumption) in impacts. This brewpub has been operating for a few months at 2515 Portland Road, behind the Ye Olde Pizza building.
- The Planning Director made an interpretation in 2007 that a small winery could be allowed in C-3; the tasting room and retail aspects were similar to a tavern and retail store, and the production aspect was similar to a small retail bakery. The winery project did not proceed, however.

*“The production portion of the winery is very similar to that of a retail bakery, another permitted use in the C-3 zone. Neither a bakery nor a winery produce offensive odors that would require them to be separated from other uses, and neither require intensive processing for their production. For these reasons, and the reasons stated above, a small scale winery with retail sales on-site would be permitted in the C-3 zone as it is sufficiently similar to several other permitted uses in the same zone (NDC § 151.371).”*

## C. **WHY CHANGE THE CURRENT CODE?**

#### ➤ **Encourage economic development:**

- **Newberg is surrounded by vineyards and rural wineries but much of the economic impact is bypassing the city.** There are increasing numbers of urban wineries in Oregon and California, so there is an opportunity to attract urban wineries

to Newberg. Small distilleries have been started in several Oregon cities, and they seem to be a growing trend. Microbreweries continue to expand in Oregon, as well.

- **Allowing new WBD would help implement one adopted Economic Opportunities Analysis (EOA) strategy:** Our adopted EOA identified the wine/tourism industry as one of our four target industry clusters. If we change our zoning to support WBD in some locations then that would help implement one of our adopted economic development strategies and encourage future development.
- **Support our existing “grape cluster” of related businesses:** The EOA strategy is not just for future development; there are many businesses in Newberg that have ties to the local wine industry. Allowing WBD in some locations will help support existing businesses and institutions, such as:
  - The Allison Inn and Spa
  - The wine tasting rooms downtown and along Portland Road
  - Restaurants, such as The Painted Lady, Subterra, Recipe, Jory, and others
  - Local suppliers to WBD
  - Local art galleries and boutiques
  - Chehalem Cultural CenterMany of these businesses are in the downtown core, so supporting WBD should help support the vitality of downtown.

➤ **Continue Newberg's long history as an agricultural processing center:**

- Newberg is a natural location for processing local agricultural products.
- Allowing wineries, in particular, is a way to reconnect with surrounding agriculture.
- Local vineyards seem likely to be a sustainable and enduring form of agriculture because they are supported by local and national consumers (not supported by federal farm subsidies, for example, which are vulnerable to overnight political changes).
- Thriving local vineyards increase the value of hillside agricultural land, which decreases the incentive for rural property owners to develop their land and reinforces Oregon's growth management goals.

➤ **There is market demand:**

- We have had several inquiries in recent years from people interested in locating a winery or brewpub in Newberg.
- We should consider updates to the development code when new business trends emerge (such as urban wineries and microdistilleries) or when we realize a business type has been overlooked (such as microbreweries or brewpubs).

➤ **The current code discourages WBD, even in industrial areas:** The need for a zoning interpretation or conditional use application discourages potential applicants from applying for approval. If any potential negative impacts can be addressed with clear development standards then the use should be allowed. This would provide clarity to prospective developers. The conditional use permit process should be reserved for projects which may, due to scale or location, have additional impacts that are difficult to anticipate.

## D. ISSUES TO CONSIDER:

- **Potential negative impacts:** Impacts could include truck traffic, odors, noise, commercial impact on industrial zones, and industrial impact on commercial zones. Wineries are busiest for 6 weeks a year during harvest, while breweries and distilleries are year round operations.
  - **Winery seasonal impacts:** I interviewed Scott Shull from Raptor Ridge Winery in Scholls about potential impacts. He explained that during harvest (4-6 weeks) they had quite a bit of truck traffic delivering grapes. The trucks range from pickups to semis, although semis are not common. The unloading area is busy with forklifts taking fruit to the sorting line during this time. The later steps in the process typically happen indoors. Washing down the grapes and rinsing out the tanks generate wastewater. A mobile bottling line (in a semi truck) will usually be on site once a year. Otherwise, the winery is primarily storage, with some office and retail activity. The tasting room retail business is busiest on weekends. They hold special dinners/events at the winery several times a year.
  - **Odors:** I briefly interviewed Charles Hesson, the tasting room manager for Dobbes Winery in Dundee. They are in an industrial zone but are next to a residential area. He noted that they did receive some complaints about truck traffic during harvest time, but had not received complaints about odors. I have found that breweries do generate odors but that, like bakeries, they are related to scale; brewpubs generate low level odors intermittently, while large breweries generate more odors and on a more regular basis. Distilleries do not seem to create odor problems.
  - **Noise:** Newberg's municipal code includes a section on unnecessary noise, so we do have a mechanism in place for our Code Enforcement officer to address noise problems. WBD uses are not expected to cause noise problems.
  - **Mixed uses:** Staff likes the vitality that mixed uses can lend to a zone but does not want commercial uses to push industrial uses out of industrial zones, and does not want industrial uses to push commercial uses out of commercial zones. It is important to limit the portion of the use that is for accessory or secondary uses. Our current code for M-4 large lot industrial, for example, limits the size of the retail portion to no more than 25 percent of the gross square feet of the total use. In no case shall any customer-related space or retail floor area exceed 5,000 gross square feet. This is probably a good model for the other industrial zones. A similar restriction could be placed on the size of the production area of a WBD in a commercial zone.
- **Implementation issues:** There are other important city-regulated issues for a WBD to address, but these should not be in the development code.
  - **Pretreatment of wastewater:** This is required by city code on an as needed basis, depending on type and size of discharge (larger wineries and fruit processing plants are typically required to pretreat discharge to avoid upsetting the BOD (sugar) and pH (acid) balance in a wastewater treatment plant). Small WBD may not need any pretreatment, but larger ones will.
  - **Building Code/Fire Code issues:** Most industrial buildings could easily adapt to a winery or brewery, but may need upgrades if they are used for a distillery. Commercial buildings would probably require more upgrades, depending on the building.

- **State and Federal alcohol regulations:** The production of alcoholic beverages is highly regulated by federal, state and local governments.
  - **Federal law** lets states draft their own restrictions on WBD, so every state is different. President Carter signed a law that allowed home brewers to produce up to 100 gallons of malt beverages per person for home consumption, with a 200 gallons maximum per household. No homebrew sales are allowed, so homebrew home businesses are not legal.
  - **Oregon:** WBD are required to get licenses from the Oregon Liquor Control Commission. The license types for manufacturers include **Brewery-public house** (primarily retail sales on premises), **Brewery** (primarily wholesale, no on-premises consumption), **Winery**, and **Distillery**. The definitions of these types are based on their typical functions, but unfortunately are not based on size. They do not provide a useful basis for defining the size or impact of a winery or distillery use. A brewery-public house, however, is clearly intended for a commercial or mixed zone, while a brewery is intended for an industrial zone since it is not normally allowed to have on-premises consumption. Newberg should consider adding a definition for brewery-public house, noting that its primary retail sales are on premises.
  
- **Industry terminology:**
  - The **American Brewers Association** uses the following definitions:
    - Microbrewery: less than 15,000 U.S. beer barrels annually
    - Brewpub: Brew and sell on premises, can be microbrewery if distribute over 75% of production.
    - Nanobrewery: A relatively new category, referring to breweries with less than a 4 U.S. beer barrel brew system. This is a small batch brewery, which will have a small total production.
  - The terms microdistillery and distillery are commonly used, but there does not seem to be a set size limit for a microdistillery. It probably refers as much to batch size as total volume.
  - The terms microwinery and urban winery are also commonly used, but there does not seem to be a set definition based on size or impacts.

## E. WHAT DO OTHER CITIES DO?

- **Dundee:** There are no definitions for WBD in the zoning code. Wineries are allowed in the Light Industrial zone, and there are several wineries there. Distilleries and breweries would also be allowed in the Light Industrial zone. Wineries and breweries are not listed as allowed uses in commercial zones, but Argyle Winery is located in the Central Business District zone. Argyle has a busy tasting room and full production/storage facilities. Argyle may have been approved as a similar use, since allowed uses in CBD include: taverns; bakeries, butcher shops and candy manufacturing (when retail sales are provided on the premises); and bottling/distilling rooms (limited by volume, degree of hazard, and when retail sales are provided on the premises).

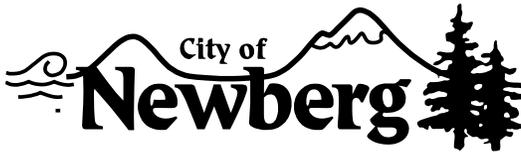
- **McMinnville:** There are no definitions for WBD in the zoning code. Wineries are allowed under "processing, packaging, and storing of food or beverage" in the Light Industrial and General Industrial zones, but are not allowed to have tasting rooms. WBD are not allowed uses in commercial zones. McMinnville does have a Light Industrial zone along the railroad tracks that are right on the edge of downtown, however, and there are at least two wineries in that industrial area. The wineries are close to the downtown pedestrian core. Golden Valley Brewpub is located in the downtown commercial zone, and is allowed because it is primarily a restaurant. McMinnville's Planning Department is interested in making their winery zoning more flexible, and may be discussing potential code changes in the near future.
  
- **Forest Grove:** There are no definitions for WBD in the zoning code. In the General Industrial zone Forest Grove allows breweries, distilleries, and wineries. WBD are not allowed in the Light Industrial zone. The SakeOne sake distillery is located in the General Industrial zone. Interestingly, SakeOne describes their process (fermenting rice) as a brewery, but Oregon state law says breweries only brew malt beverages; by default, SakeOne is considered a distillery. Brewpubs are allowed in commercial zones, and limited in industrial zones (allowed as restaurants/taverns if they are less than 3,000 gross square feet and the director finds they serve the needs of workers in the industrial area).
  
- **Pendleton:** There are no definitions for WBD in the zoning code. In the Central Commercial zone (downtown commercial, like Newberg's C-3) Pendleton allows brewpubs, breweries and wineries (with a production of less than 50,000 gallons a year, provided a tasting room is open to the public on a regular basis), and distilleries (with a production volume of less than 12,000 gallons a year). BWD that want to exceed the gallon limits require a conditional use permit. BWD are not allowed in Service Commercial (like Newberg's C-2), but are allowed in Light Industrial and Heavy Industrial.
  
- **Walla Walla, WA:** The zoning code allows distilleries in industrial zones. Wineries are defined as Type A (winery with emphasis on pedestrian-oriented retail and tastings, but without primary fruit processing or bulk fermentation), Type B (winery similar to A but with primary fruit processing and bulk fermentation), and Type C (winery emphasis on industrial production rather than pedestrian-oriented access and commercial activity). Breweries are defined as Type A (brewery with primary processing associated with a restaurant) and Type B (brewery with primary processing with or without on-site tasting, not associated with a restaurant).
  - Central Commercial (like Newberg's C-3): Type A wineries are allowed, Type B wineries are a conditional use. Type A breweries are allowed.
  - Highway Commercial (like Newberg's C-2): Same as Central Commercial.
  - Light Industrial/Commercial: Allows all types of wineries and breweries.
  - Heavy Industrial: Allows Type C wineries and Type B breweries.
  
- **Aurora, Colorado:** Allows brewpubs in any commercial zone that allows restaurants, with a production limit of 9,000 barrels a year. A microbrewery, defined as producing

9,000-60,000 barrels a year, is a conditional use in commercial zones and allowed in industrial zones. A brewery, defined as producing over 60,000 barrels a year, is only allowed in the heavy industrial zone.

- **Bloomington, Indiana:** Allows brewpubs in the downtown commercial area as long as at least 50% of the gross floor area is for public use as a tavern/restaurant.
- **Portland, OR:** There are several urban wineries in Portland. Hip Chicks, which has a tasting room in Newberg, has an urban winery in a southeast Portland industrial zone. Portland has a large microdistillery (Clear Creek, in an industrial area), and several small microdistilleries. There are over 30 brewpubs, and some microbreweries that are fairly large (Widmer).
  - Portland's zoning code does not have definitions for WBD, which means they rely on common language definitions.
  - WBD are allowed in employment and industrial zones as "manufacturing and production" uses, where few customers are expected to come to the site.
  - Most commercial zones allow a portion of the site for "manufacturing and production uses", but have an "industrial size limitation" clause that limits that use to 10,000 square feet of gross floor area so that it doesn't dominate the commercial uses in the zone and it limits the potential impacts. There is often a "no outdoor storage of materials, tools, etc." clause, as well. Small WBD would be a conditional use in Neighborhood Commercial (like Newberg's C-1), not allowed in Office Commercial (like Newberg's R-P), and allowed but limited in Storefront Commercial (like Newberg's C-3), General Commercial (like Newberg's C-2), and Central Commercial.

## F. NEXT STEPS - SOME CODE AMENDMENT OPTIONS:

- **Status quo:** The base condition, if there is insufficient support for changes.
- **Allow WBD in all industrial zones,** as we do in M-4.
- **Allow WBD in commercial and industrial zones** and rely on higher commercial rents to limit the size and impact of the uses. Large WBD would be very likely to choose industrial zones, so this "self policing" approach would probably work fairly well. It would allow a small WBD in a commercial zone to keep expanding, however, as it doesn't have a size limit.
- **Allow WBD in all industrial zones, and allow as conditional uses in commercial zones.** While this would be an improvement over the current code in some ways, it still requires an expensive and subjective CUP process for small WBD uses.
- **Allow WBD in all industrial zones. Allow WBD in C-3 and C-2 subject to development standards** (such as a limit on the size of the production area, a requirement that brewpubs be primarily restaurants with on-premises sales, a requirement for a minimum area devoted to retail, a ban on outdoor storage of materials and tools). Any WBD that wanted to locate in a commercial zone but not meet the development standards would need a conditional use permit.
- **Other thoughts?**



## Planning and Building Department

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### PLANNING COMMISSION STAFF REPORT ZONING USE TABLE REVISION

MEETING DATE: February 9, 2012

FILE NO: DCA-12-002

TOPIC: Update the zoning use tables in the Development Code

#### ATTACHMENTS:

1. Sample Zoning List from the Newberg Development Code
2. Grifton, NC Development Code Excerpt
3. Newberg Zoning Use Table By Category
4. Oregon Small Cities Model Development Code Excerpt
5. Grants Pass Development Code Excerpt
6. Form Based Code Information Sheet
7. Clark County Zoning Use Table
8. San Luis Obispo Zoning Use Table
9. Palisade Zoning Use Table

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- A. SUMMARY:** At the February 9, 2012 planning commission meeting, staff will begin a discussion about the process of updating the zoning use tables in the Development Code. We will ask the commission for general direction on the objectives, style, and process for making such a change.
- B. BACKGROUND:** The zoning sections in the Newberg Development Code currently are formatted so that there is a section for each zone, and an alphabetical list of the uses allowed in that zone. See Attachment 1. The Code lists over 300 uses as either permitted or conditional uses in over 17 different zones. The format derives from the city's earliest zoning ordinances written in the 1950's. These zoning lists are in need of maintenance and update.
- C. OBJECTIVES:** There are a variety of ways the zoning use table can be updated. Regardless of the final format, staff suggests that any change meet the following objectives.
1. ***Every use should have a definition.*** When determining whether a use is allowed or not, it is very important that terms be well defined. As an example, the code currently lists "variety shop" as a permitted use in commercial zones without defining that term. It's not difficult to see how this lack of definition could be misused: If I sell both motor boats and RVs, is that a variety shop? If I manufacture both wood and metal products, is that a variety shop?

2. ***Uses should not overlap.*** When a proposal could fit in more than one category, it can generate problems, especially if one use is allowed in one zone but not another. For example, “Hardware Stores” are a permitted use in the C-2 zone, but not the M-2 zone. On the other hand, “Building Material Sales” is a permitted use in the M-2 zone. It’s easy to see how the same store could fit into either use category. Trying to enforce the subtleties between the two can be very problematic.
3. ***Uses should be organized by category rather than by alphabet.*** The current zoning list is organized alphabetically. This can make it difficult to find a use, especially if the user doesn’t know what a use is called. For example, in the C-3 zone, one can find “Dancing and Music Schools” as a permitted use under “D”. In the C-2 zone, one can find “Music and Dancing Schools” as a permitted use under “M”. The use would be easier to find if it was categorized under a more general category such as “Schools.”
4. ***All uses should be placed in one table.*** All uses should be placed in one table so the user can quickly see in which zones a particular use is allowed. This also serves to reveal hard to find uses. Only astute code readers would discover that garbage dumps actually are a conditional use in the R-1 zone.

This also has the powerful effect of showing an intentional distinction between what uses are and aren’t allowed in each zone. For example, “museums” are a permitted use in the C-3 zone, but not in C-2. Was this an intentional decision on the part of the planning commission and city council to prohibit museums in C-2, or just an oversight? Putting all the uses in one table allows the commission to correct errors if they are errors, and make an intentional decision if they are deliberate. Also, if there is a particular aspect of a use that may be allowed in one zone but not another, such as whether outdoor storage is allowed, those differences can more easily be discerned.

An example of such a code is Grifton, NC. See Attachment 2. Newberg’s Code organized in this way would look like Attachment 3.

5. ***Similar uses should be combined, use names standardized, and the overall number of defined uses reduced.*** The current code lists over 300 uses. Many offer a distinction without a difference. For example, the code lists “Bars,” “Night Clubs,” “Cocktail Lounges,” and “Taverns” all as permitted uses in various zones. If there is not a real distinction between these uses, then they all should be combined into one definition.
6. ***Definitions should be modernized.*** Newberg’s first zoning ordinance was developed in the 1950’s, and many use definitions have hung around since that time. It is time to retire such names as “reducing salons,” “fumigation chambers,” and “slot racing tracks.” It also is time to consider how uses such as solar panel arrays, bio-fuel production facilities, data server centers, adult foster homes, and wineries fit into the zoning code.
7. ***The code should be updated to meet new state and federal laws.*** Federal and state laws, rules, and court rulings have defined how some uses may be regulated. Newberg’s zoning ordinances have not quite caught up to some of these. Two particular examples include:

- a. Day care: State statutes require “family day care” to be a permitted use in any residence. The code needs updated to reflect that rule.
- b. Churches: The Religious Land Use and Institutionalized Persons Act (RLUIPA) requires, among other things, that church uses not be treated more strictly than similar non-religious uses. A few language changes could be needed to the code to ensure compliance with this act.

The Commission can decide if there are other policy objectives it wants to pursue through this process.

**D. STYLE OPTIONS:** The commission also could consider changing to a different style of zoning use table through this process. Some options include.

- 1. **SPECIFIC/SIMILAR USE.** Newberg’s current code is this style. The code lists a number of specific uses, and allows uses “similar” to those. For example, Newberg’s code lists “day nurseries” as a permitted use in residential zone. Adult day care is not listed, but would be considered similar to a day nursery, so would be allowed.
- 2. **USE CATEGORIES.** Rather than list specific uses, some codes list broad categories of uses. Each use then fits into one category. For example, a code may list “retail sales” as a permitted use, rather than giving a long list of different types of retail stores. The Oregon Model Code uses this type of table. See Attachment 4.
- 3. **USE CATEGORIES WITH PERFORMANCE CHARACTERISTICS.** Some code use specific limits on characteristics to separate use types, such as size limits, whether the use operates indoors or outdoors, or hours of operation. For example, industrial uses might be separated into an “indoor” vs. and “outdoor” category, with indoor industrial being allowed in one zone and either in another. The Grants Pass Development Code uses this type of use table. See Attachment 5.
- 4. **FORM BASED CODES.** Form based focus more on what building types are allowed than what uses go in those buildings. A form based code could, for example, specify that buildings in the downtown area would have to be two story, brick façade buildings, built with certain architectural features and with at least 60 percent of the lot covered by building. Beyond that, the zoning would not differentiate whether that building was used for residences, auto repair, or commercial uses. See Attachment 6.

**E. PROCESS:** The process used to update the zoning use table can be very important. The process needs to be very transparent so that the planning commission, city council, and the public can understand what changes are being made and why. Thus, we need to consider a process that includes all three entities: planning commission, city council, and the public. Some options are:

- 1. **PLANNING COMMISSION INVOLVEMENT**
  - a. Holding a series of planning commission workshops.
  - b. Splitting the commission into smaller workgroups, each who might look at one

particular class: residential, commercial, institutional, industrial.

- c. Appointing a subcommittee to make a recommendation.
- d. Other.

## 2. CITY COUNCIL INVOLVEMENT

- a. Holding joint planning commission/city council workshops.
- b. Having city council check-ins at the beginning, middle, and end.
- c. Appointing a city councilor to work group.
- d. Other.

## 3. PUBLIC INVOLVEMENT. The level of public involvement should be proportional to the actual changes proposed. A simple rearranging of the code should require only the standard notices and hearings. If the commission ends up recommending more substantive changes, then the public should have greater involvement through techniques such as:

- a. Newsletters.
- b. Workshops.
- c. Hearings.
- d. Other.

In addition, staff will try to maintain a clear road map so anyone can see how particular uses are affected by any change.

Also, inevitably a change will end up with someone being concerned that a specific use once was allowed on their property but now isn't, even if it is only due to the slightest nuance in definition. The commission might consider a grace period such that if anyone can show the "old" code allowed a use, but the "new" one doesn't, they would still be allowed to establish that use.

## F. TIMING AND LEVEL OF EFFORT

Staff anticipates doing this project as a "fill in" type project at planning commission meetings for times when there aren't many other items scheduled. We also hope to secure some intern assistance to do research for the project. Thus the project could take a year or more to complete, depending on the time needed for other projects.

**Chapter 15.314**  
**C-2 COMMUNITY COMMERCIAL DISTRICT**

Sections:

- 15.314.010 Description and purpose.
- 15.314.020 Permitted buildings and uses.
- 15.314.030 Buildings and uses permitted conditionally.

**15.314.010 Description and purpose.**

The C-2 community commercial district is intended to create, preserve and enhance areas with a wide range of retail sales and service establishments serving both long- and short-term needs in compact locations typically appropriate to commercial clusters near intersections of major thoroughfares. This district also includes some development which does not strictly fit the description of this section through NMC 15.316.030 but also does not merit a separate zoning district. The C-2 district is intended to be consistent with the commercial and mixed use designations of the comprehensive plan. [Ord. 2451, 12-2-96. Code 2001 § 151.355.]

**15.314.020 Permitted buildings and uses.**

A. In the C-2 community commercial district, the following buildings and uses are permitted as hereinafter specifically provided.

B. These buildings and uses are subject to the general provisions and exceptions set forth in this code:

1. Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and NMC 15.314.030.

2. Agricultural machinery sales and service.

3. Ambulance services.

4. Antique shops.

5. Appliance sales and service.

6. Art supplies.

7. Artist studios.

8. Athletic facilities.

9. Auction sales, excluding livestock.

10. Auditoriums and theaters.

11. Automobile parts and accessories stores.

12. Automobile sales, new and used.

13. Bakeries, retail.

14. Bakeries, wholesale.

15. Banks.

16. Barber and beauty shops.

17. Bars or night clubs; provided, that only a liquor license of the type "Dispenser Class A" is applied for.

18. Bed and breakfast establishments.

19. Bicycle shops.

20. Blood banks.

21. Blueprinting.
22. Bookstores.
23. Bowling alleys.
24. Building maintenance services.
25. Business offices, general.
26. Camera and supplies shops.
27. Car washes, coin-operated or mechanical.
28. Catering services.
29. Chapels.
30. Christmas tree sales (outdoor sales) in accordance with this code.
31. Churches.
32. Clinics.
33. Clothing apparel shops.
34. Clubs, lodges and meeting halls.
35. Cocktail lounges.
36. Colleges, business or private.
37. Confectionery stores with fountains.
38. Curio shops.
39. Dairy products stores, retail only.
40. Dance halls.
41. Day nurseries.
42. Data processing centers.
43. Delicatessen stores.
44. Department stores.
45. Drapery stores.
46. Dress and millinery shops.
47. Driving ranges, private.
48. Dry cleaning establishments; coin-operated, custom and self-service.
49. Dwelling units, provided the units are above any use permitted in this chapter. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
50. Electrical and electronic supplies, retail.
51. Equipment sales (limited to self-propelled equipment, if not within an enclosed building).
52. Fireworks sales (outdoor sales) from June 24th through July 6th.
53. Floor covering stores.
54. Florist shops.
55. Furniture stores.
56. Garden supplies.
57. Gift shops.
58. Grocery stores, markets and supermarkets, including food products stores, retail.
59. Group care homes, provided they comply with the requirements listed under subsection (B)(50) of this section.
60. Hardware stores.
61. Health studios.

62. Hobby shops, including slot racing tracks.
63. Hospitals.
64. Hotels, motels, motor hotels or tourist courts.
65. Interior decorators' studios.
66. Jewelry stores.
67. Laboratories, medical and dental.
68. Laundromats, hand laundries and self-service laundries.
69. Leather goods stores.
70. Liquor stores, package.
71. Lockers, cold storage, retail use only.
72. Locksmith shops.
73. Marine sales and service.
74. Miniature golf courses.
75. Mobile home sales and service.
76. Mortuaries.
77. Movie theaters.
78. Music or dancing schools.
79. Music stores.
80. Newspaper printing establishments.
81. Offices for the following:
  - a. Accountants.
  - b. Attorneys.
  - c. Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.
  - d. Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.
  - e. General administration.
  - f. Insurance brokers.
  - g. Lumber brokers.
  - h. Real estate sales.
  - i. Savings and loans.
  - j. Stockbrokers.
  - k. Telephone answering services.
82. Office supplies and equipment stores.
83. Open space.
84. Paint and wallpaper stores.
85. Parking areas, public or private.
86. Parking garages, public or private.
87. Pet shops.
88. Photographic film processing, photo-engraving, photocopying and photostating.
89. Photographers' studios.
90. Planned unit developments.
91. Pool and billiards halls.
92. Post offices.
93. Printing shops.

94. Public and semi-public buildings.
95. Radio and television broadcasting studios.
96. Radio, television and record sales and service.
97. Reducing salons.
98. Repair garages.
99. Research institutes (nonmanufacturing).
100. Restaurants, including drive-through windows.
101. Retail building material sales, provided outside storage is visually screened.
102. Schools, business or private.
103. Secondhand stores (if conducted wholly within an enclosed building).
104. Service stations.
105. Sewing machine sales and service.
106. Shoe repair shops.
107. Shoe stores.
108. Skating rinks, indoor.
109. Small animal hospitals and clinics.
110. Sporting goods stores.
111. Storage buildings (household goods only). Mini-storage.
112. Surgical, medical and dental supplies and equipment stores.
113. Tailor shops.
114. Taverns.
115. Telecommunications facilities, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.
116. Telephone and telegraph exchanges.
117. Theaters.
118. Tobacco shops.
119. Toy stores.
120. Transit centers.
121. Transportation facilities and improvements.
122. Travel agencies.
123. Upholstery, automobile and furniture.
124. Variety shops.
125. Any other buildings or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. [Ord. 2619, 5-16-05; Ord. 2536, 11-6-00; Ord. 2451, 12-2-96. Code 2001 § 151.356.]

#### **15.314.030 Buildings and uses permitted conditionally.**

In addition to the buildings and uses permitted conditionally listed in NMC 15.225.070, the planning commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- A. Dwelling units. The permitted density shall be stated on the conditional use permit.
- B. Fumigation chambers.

C. Group care facilities. The permitted density shall be stated on the conditional use permit.

D. Group care homes not meeting the requirements listed under permitted uses in NMC 15.314.020.

E. Nursing homes.

F. Recreational vehicle parks.

G. Telecommunications facilities, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole and will extend above the existing structure more than 18 feet.

H. Theaters, drive-in.

I. All development sites within the C-2 district that include buildings that individually exceed 30,000 gfa or 50,000 cumulative gfa that do not meet the code requirements of NMC 15.220.070(H).

J. Any other buildings or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. [Ord. 2696 § 1 (Exh. A(2)), 6-2-08; Ord. 2536, 11-6-00; Ord. 2499, 11-2-98; Ord. 2451, 12-2-96. Code 2001 § 151.357.]

Permitted Uses	GR	RA20	R20MH	R14	R10	R8	R6SF	R6	CBD	BI	NB	O/I	I1	I2
X = Permitted by right C= Conditional use permit approved by Town Board Blank Space = Not permitted														
<b>ACCESSORY USES AND STRUCTURES</b>														
Accessory uses and structures (customary), subject to development criteria in § 152.155		X	X	X	X	X	X	X			X			
<b>AGRICULTURE USES</b>														
Agriculture production, crops and livestock (crops and livestock production as specified in U.S. Department of Commerce Standard Industrial Code SIC 01 and 02). However, "intensive livestock operations", as defined in § 152.007 shall not be permitted.		X	X								X			
Farming, including truck gardening, plant nurseries, greenhouses with retail sales		X	X							X	X			X
Forestry		X	X											
Roadside stands, provided the produce is raised on the same tract/parcel		X												
<b>EDUCATIONAL/INSTITUTIONAL</b>														
Airfields		C												
Cemeteries (commercial or municipal)										C				
Churches	X	X	X	X	X	X	X	X	C	C				
Clubs, non-profit, public or private organizations such as moose lodges, VFWs or Kurians									C	X	X			
Community centers (publicly owned)					C		C	C	C					
Day care centers, adult or children		C						C	C					
Government offices (Town Hall)									X					
Homes for infirm or aged, congregate care,					C	C		C		C				

Permitted Uses	GR	RA20	R20MH	R14	R10	R8	R6SF	R6	CBD	BI	NB	O/I	I1	I2
life care, non-protected group homes, intermediate care, and nursing homes, subject to the development criteria of § 152.158														
Libraries									X					
Post offices									X					
Preschool facilities as a secondary use in a church		C	C	C	C	C	C	C	C	C				
Public parks, including ball fields	X	X	X	X	X	X	X	X	X	X	X	X		
Public safety facilities, including fire, police	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Public utility substations, water and sewer pumping stations and water storage tanks	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Schools, including public, charter or private (K-12)		C				C			C	C				
Sewage treatment plants														X
<b>INDUSTRIAL</b>														
Building supplies and storage													X	X
Bulk storage, petroleum														X
Construction offices and equipment storage		C										X		
Cotton gins		C												
Feed and grain, sales and storage														X
Livestock buying/transfer stations														X
Manufacturing of wood products, textiles, plastics, clothing, appliances, food stuff, electrical components or tobacco products from restructured materials or components													X	X
Parking lots as principle use provided they are:									X	X			X	X

<i>Permitted Uses</i>	<i>GR</i>	<i>RA20</i>	<i>R20MH</i>	<i>R14</i>	<i>R10</i>	<i>R8</i>	<i>R6SF</i>	<i>R6</i>	<i>CBD</i>	<i>BI</i>	<i>NB</i>	<i>O/I</i>	<i>I1</i>	<i>I2</i>
(1) Adjacent to a commercial or industrial use or within 500 feet of such a use; and (2) Contain only stored vehicles (no materials used in the operation of the business or industry)									X	X	X	X		
Planned business developments, subject to development criteria in § 152.166									X	X	X	X	C	C
Sawmills, permanent, non-seasonal		C											X	X
Sewage treatment plant														C
Sheet metal fabrication shops, including storage and sales														X
Storage yards, provided the yards are enclosed by a solid screening wall or fence at least six feet in height													X	X
<b>RECREATION USES</b>														
Community centers				C	C	C	C	C	X			C		
Golf courses and club facilities; however, within the GR District, no permanent club facilities shall be permitted	X	C												
Stables (see retail sales/services)		C												
Public parks, including accessory uses such as ball fields, tennis courts or basketball courts, bathrooms, shelter, storage building for park supplies	X	X	X	X	X	X	X	X	X	X	X	X	X	X
RV parks, subject to development criteria in § 152.168	X													
<b>RESIDENTIAL</b>														
Bed and breakfast dwellings, subject to the development criteria § 152.157		C		C	C									
Dwellings, two-family (duplex)		X				X		X						

<i>Permitted Uses</i>	<i>GR</i>	<i>RA20</i>	<i>R20MH</i>	<i>R14</i>	<i>R10</i>	<i>R8</i>	<i>R6SF</i>	<i>R6</i>	<i>CBD</i>	<i>BI</i>	<i>NB</i>	<i>O/I</i>	<i>II</i>	<i>I2</i>
Dwellings, multi-family, subject to the development criteria specified in § 152.164		C				C		X						
Dwellings, multi-family/single-family units in CBD and B-I Districts subject to the development criteria specified in § 152.165									C	C				
Dwellings, single-family, detached (site-built and modular unit)		X	X	X	X	X	X	X				C		
Dwellings, single-family, manufactured homes, class A double-wides subject to the development criteria in §§ 152.160 and 152.161		X						X						
Dwellings, single family, manufactured home, class B single-wides subject to the development criteria in §§ 152.160 and 152.162		C						X						
Home occupations, subject to the development criteria in § 152.159		X		X	X	X	X	X				C		
Family care homes, provided any new home is not located within a half-mile radius of any existing family care home		X	X	X	X	X	X	X						
Rest homes and retirement centers		C								C				
Planned unit developments (PUDs), subject to the development criteria in § 152.167		C		C	C	C	C	C						
Manufactured home parks, subject to the development criteria in § 152.163			C					X						
Mixed uses (residential dwelling over a commercial use) provided it meets the development criteria									C	C				
<b>RETAIL SALES/SERVICES</b>														
ABC stores									X	X				
Accounting and bookkeeping offices									X	X	X		X	
Agricultural supplies centers, sales and										X				

<i>Permitted Uses</i>	<i>GR</i>	<i>RA20</i>	<i>R20MH</i>	<i>R14</i>	<i>R10</i>	<i>R8</i>	<i>R6SF</i>	<i>R6</i>	<i>CBD</i>	<i>BI</i>	<i>NB</i>	<i>O/I</i>	<i>I1</i>	<i>I2</i>
service														
Animal (dog, cats and the like) accessory equipment, but not include veterinary services									X	X				
Appliance stores, sales and services									X	X				
Apparel and accessory stores									X	X				
Antique stores									X	X	X			
Artwork stores									X	X	X			
Auto glass stores										X				
Auto parts stores, new only									X	X				
Auto repair shops (garages)										X				
Auto sales lots										X				
Auto service stations									X	X				
Banks or other financial institutions									X	X		X		
Beauty shops/barber shops/stylists									X	X	X	X		
Building materials stores (i.e., Lowes, Home Depot)										X			X	
Business services, including: computer sales and service, copying, printing and newspaper production									X	X				
Bookstores, including magazine and stationery									X	X	X			
Cabinet, woodworking, and upholstery shops										X				
Craft/curio shops									X	X	X			
Clothing stores									X	X				
Clubs or other places of entertainment										C				

<i>Permitted Uses</i>	<i>GR</i>	<i>RA20</i>	<i>R20MH</i>	<i>R14</i>	<i>R10</i>	<i>R8</i>	<i>R6SF</i>	<i>R6</i>	<i>CBD</i>	<i>BI</i>	<i>NB</i>	<i>O/I</i>	<i>I1</i>	<i>I2</i>
Contractor's offices with outside storage yards										X				
Contractor's offices without outside storage yards									X	X				
Convenience stores with gas pumps									X	X				
Department stores									X					
Drug stores									X	X				
Electrical appliance stores, sales and service									X	X				
Electrical equipment repair shops									X	X				
Farm equipment stores, sales and repair									X	X				
Feed and grain stores, sales and storage										X			X	
Flea markets										C				
Florists, excluding commercial greenhouses									X	X	X			
Floor covering stores									X	X				
Food/grocery stores									X	X				
Funeral homes									X	X		X		
Furniture stores									X	X				
General merchandise stores, including the sale of fishing equipment and supplies									X	X				
Gift and stationery shops									X	X		X		
Golf courses and related facilities, which may include a clubhouse with a restaurant		C												
Health club with exercise equipment (gym)														
Home occupations; provided, they comply with the development criteria in § 152.159		X	X	X	X	X	X	X	X	X				

Permitted Uses	GR	RA20	R20MH	R14	R10	R8	R6SF	R6	CBD	BI	NB	O/I	I1	I2
Ice cream parlors									X	X		X		
Insurance agencies									X	X		X		
Jewelry stores including watch repair									X	X				
Manufactured home sale/service lots										X			X	
Medical offices and clinics									X	X		X		
Music stores									X	X				
Neighborhood grocery stores						C	C	C			C			
Repair shops, including, but limited to, electrical, shoes, locks, guns, radio, television, watch, clock and computers									X	X	X			
Restaurants with drive through windows										X				
Restaurants without drive through windows									X	X		X		
Retail stores, sales and services without outside storage									X	X				
Paint stores									X	X				
Pet stores									X	X				
Planned business developments (shopping centers, industrial parks and the like), subject to the development criteria in § 152.166									C	C	C			
Photography, including, but not limited to, processing film and producing photo copies									X	X	X			
Professional offices (including, but not limited to lawyers, surveyors, architects, engineers and the like)									X	X	X	X		
Real estate offices, sales and rental									X	X		X		
Shoe stores, sales and repair									X	X				
Sport stores									X	X				

<i>Permitted Uses</i>	<i>GR</i>	<i>RA20</i>	<i>R20MH</i>	<i>R14</i>	<i>R10</i>	<i>R8</i>	<i>R6SF</i>	<i>R6</i>	<i>CBD</i>	<i>BI</i>	<i>NB</i>	<i>O/I</i>	<i>I1</i>	<i>I2</i>
Storage facilities provided all materials are within an enclosed building										X				
Storage facilities provided all materials stored outside are within an opaque fence or wall at least six feet in height									X	X			X	
Stables; provided, all barns and feeding facilities are at least 50 feet from all property lines; and the stable lot shall contain at least one acre per animal.		C												
Telecommunication towers, subject to the development criteria in § 152.169										C			c	c
Trades, including, but not limited to, plumbing or electrical, sales or service										X				
Wholesale showroom and sales facilities, but not warehousing										X			X	
Veterinary hospitals/clinics with kennels; provided, all runs are within a enclosed building										X			X	
<b>TEMPORARY USES/EVENTS</b>														
Carnivals, downtown festivals and other special events conducted for short periods of time														
Temporary construction, storage or offices			X	X	X	X	X	X	X	X	X	X	X	X

# Newberg Development Code Zoning Use Table By Category

	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
P: Permitted Use C: Conditional Use *Use has specific limits, see Devt. Code																	
<b>Accessory</b>																	
<b>Accessory</b>																	
Accessory building and uses incidental to others permitted in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	
Billboards												C*					
Home occupation	P	P	P	P*	P												
Home occupation (one or more outside paid employee)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
<b>Agricultural</b>																	
<b>Agriculture</b>																	
Agricultural uses: Berry and bush crops Flower gardening Raising and harvesting of orchards, tree crops Truck gardening, the raising and harvesting of vegetables for home consumption	P	P									P	P		P			
Agricultural, general (no slaughterhouses)													P				
<b>Commercial</b>																	
All development sites within the C-2 district that include bldgs that exceed 30,000 gfa or 50,000 gfa that do not meet code requirements							C*										

# Newberg Development Code Zoning Use Table By Category Attachment 3

Commercial Lodging	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Bed and Breakfast establishments ( more than two guest sleeping rooms)	C	C	C		C	C	P	P	P								
Bed and Breakfast establishments (2 or fewer sleeping rooms)	C	P	P		P	P	P	P	P								
Hotel, motels, Inns,motor hotels or tourist courts							P	P*/C*	C								
Motel and Hotels																	C
<b>Commercial Service</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
ATM Facilities									P								
Automobile rental agencies																	P
Banks						P	P	P	P		P	P	P				
Blueprinting							P	P	P				P				
Catering services							P	P	P								
Drive-up service windows								C*									
Dry cleaners, coin operated						P	P	P	P								
Dry cleaners, tailor shops													P				
Dry cleaning establishment							P	P	P								
Laundromats, hand laundries, and self-service laundries						P	P	P	P								
Mortuaries							P	P	P								
Photocopying/Photoengraving/Photographic film processing/Photostatting							P	P	P		P						
Plumbing supplies and services											P	P					
Post offices						P	P	P	P				P				
Printing and publishing											P	P					
Printing shops							P	P	P				P				

# Newberg Development Code Zoning Use Table By Category Attachment 3

Commercial Service	Commercial Service																
	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Sewing machine sales and service							P	P									
Shoe repair shops						P	P	P					P				
Tailor or dressmaking shops						P	P	P									
Telephone answering services						C	P	P									
Upholstery; automobile and furniture							P	P									
<b>Eating and Drinking</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Banquet facilities									C								
Bars or night clubs							P	P					P				
Breweries and brew pubs									p								
Cafeteria and kitchen facilities															P		C*
Cocktails lounges							P	P									
Delicatessen stores							P	P	p				P				
Night Clubs													P				
Restaurants							P*	P	P*	P*	P*	P*	P*				C*
Taverns								P	P				P				
Wine tasting rooms or wine shops									P								
<b>Office</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Accountant						P	P	P	P								
Administrative Offices															P		
Architect						P	P	P	P	P							
Attorney						P	P	P	P								

# Newberg Development Code Zoning Use Table By Category Attachment 3

Office	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Building maintenance service							P	P			P	P					
Business offices, general							P	P									
Business that have hours of operation between 10 PM and 7 AM						C											
Designing										P							
Drafting or graphics					P		P	P	P	P							
Engineer					P		P	P	P	P*							
General administration							P										
General office use ( no retail activities)					P												
Insurance broker					P		P	P	P								
Landscape architect					p		P	P	P	P							
Lumber broker					P		P	P									
Offices													P		P*		
Photographers studios					P		P	P	P								
Real Estate sales					P		P	P	P								
Research institutes (non-manufacturing)							P										
Savings and loans							P	P									
Search and rescue operations																	P*
Small animal clinics							P	P			P	P					
Small animal hospitals							P				P	P					
Stockbroker					P		P	P									
Surveyors					P		P	P	P	P							
Travel agencies							P	P	P								

# Newberg Development Code Zoning Use Table By Category Attachment 3

Personal Service	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Barber and beauty shops						P	P	P			-		P				
Reducing salons							P	P									
<b>Recreation</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Amusement parks	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Athletic facilities							P	P*/C*		P	P	P	P		P		
Auditorium and theaters							P	P							P*		
Billiards and pool halls								P									
Bowling alleys							P	P									
Carnivals and circuses ( 2 weeks or more) or governmentally sponsored event	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Dance halls							P	P									
Driving range	C	C												C			
Driving range (private)							P	P		P*	P*	P*					
Miniature golf courses							P	P		P*	P*						
Movies theaters							P	P									
Museums								P	P								
Outdoor recreation facilities																	
Places of entertainment and amusement, if conducted within a wholly enclosed building								P									
Pool and billiard halls							P	P					P				
Race tracks, including drag strips and go-cart tracks	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Recreational vehicle parks							C			C	C	C					
Resorts									C								

# Newberg Development Code Zoning Use Table By Category Attachment 3

Recreation	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Rolling skating rink										P*							
Skating rinks, indoor						P	P	P			P	P					
Theaters						P	P										
Theaters (drive-in)						C					P	P					
Water oriented recreation facilities									P								
Retail Sales	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Agricultural machinery sales and services							P				P	P					
Agricultural supplies, including hatcheries											P	P					
Aircraft sales																	P*
Antiques shops						P	P	P	P								
Appliance sales and services						P	P										
Art supplies						P	P	P									
Artist studios					P	P	P		P								
Auction sales											P*	P*					
Auction sales, excluding livestock							P										
Automobile parts and accessories stores						P	P	P									
Automobile sales, new and used						P	P	C			P*	P*					
Bakeries, retail						P	P	P	P		P*	P*	P*				
Bicycles shops						P	P	P	P				P				
Book stores						P	P	P	p				P*	P*	P		
Building materials sales							P*				P*	P*					
Camera and supplies shops						P	P	P									

# Newberg Development Code Zoning Use Table By Category Attachment 3

<b>Retail Sales</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Clothing apparel shops							P	P	p								
Confectionery stores with fountains						P*	P	P	P*								
Convenience grocery stores within maximum of 2000 square feet											P*	P*					
Convenience markets without fueling facilities									P								
Curio shops							P	P	p								
Dairy products stores (retail only)						P	P	P									
Department stores							P	P									
Drapery stores							P	P									
Dress and millinery shops							P	P									
Durable medical supplies/equipment sales and rental															P		
Electrical and electronic supplies (retail)							P	P									
Equipment rental yards											P	P					
Equipment sales							P*				P	P					
Feed and seed stores											P*	P*					
Floor covering stores							P	P									
Florist shops							P	P					P				
Furniture stores							P	P									
Galleries									P								
Garden supplies							P	P									
Gift shops						P	P	P	P				P				C
Grocery stores or markets						P	P	P*/C*					P*				

# Newberg Development Code Zoning Use Table By Category Attachment 3

<b>Retail Sales</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Hardware stores						P	P	P					P*				
Hobby shops, including slot racing tracks							P	P									
Interior decorator studio					P	P	P	P	P								
Jewelry stores							P	P	P								
Leather goods stores							P	P									
Liquor stores, package							P	P									
Lockers, cold storage, retail use only							P	P									
Locksmith shops							P	P					P				
Marine sales and service							P		P*								
Meat markets						P											
Mini Mart, less than 5000 gross square feet													P				
Mobile home sales and services							P				P						
Music stores							P	P	P								
Offices supplies and equipment stores							P	P					P				
Other retail sales and services incidental to industrial uses												P	C				
Paint and wallpaper stores							P	P									
Pawn shops								P									
Pet shops							P	P									
Pharmacy or drug store						P	P	P	P				P*		P		
Radio, television and record sales and services							P	P									
Retail sales of goods manufactured on site													P*/C*				

# Newberg Development Code Zoning Use Table By Category Attachment 3

<b>Retail Sales</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Secondhand stores							P*	P*			P	P					
Shoe stores							P	P									
Sporting goods stores							P	P	P								
Surgical, medical and dental supplies and equipment stores							P	P									
Tobacco shops							P	P									
Toy stores							P	P	P								
Truck sales and services											P	P					
Variety shops							P	P	P								
<b>Self-Service Storage</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Self service storage													P				
Storage buildings (household goods only, mini-storage)							P										
Storage buildings and warehouses (household or consumer goods)										P							
<b>Temporary Sales</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Christmas tree sales (outdoor sales) in accordance with this code							P	P			P	P					
Fire works sales (outdoor sales ) from June 24 to July 6							P	P			P	P					
<b>Vehicle Service and Repair</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Automobile painting shops											P	P					
Car washes, coin operated or mechanical							P	C			P*	P*					
Card Lock Fueling systems													P				
Mobile diagnostic service															P		

Vehicle Service and Repair																	
	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Radiator service and repairs											P	P					
Repair garages						P	P*				P	P					
Service stations						P	C			P*	P*	P*					
Warehouse and Freight Movement																	
	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Storage building for storage of documents, records, testing and research equipment, experimental models and other personal property related to the principal use															P		
Industrial																	
Aviation Related																	
	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Aerial mapping and surveying																	P
Aeronautic recreational and sporting activities																	C*
Aircraft Hangar																	P*
Aircraft or air transportation businesses																	P
Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public																	P
Aircraft service, maintenance and training facilities																	P*
Aviation-related activities																	P*
Business activity that relies on regular use of a general aviation aircraft by the business or its clients																	P
Business that owns an aircraft, keeps at industrial site and relies on aircraft as important tool or platform for their work																	P
Firefighting activities																	P*
Flight instruction																	P*

# Newberg Development Code Zoning Use Table By Category Attachment 3

Aviation Related	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Law enforcement activities																	P*
Private streets that function as taxiways																P*	P*
Residential airpark development, one residence per lot within the addition of a tie-down or hangar for an airplane																P	
Snack shop for airport clientele with a total floor area no larger than 800 SQ FT																	P
<b>Industrial Service</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Automobile, building or wrecking yards																	
Data processing center							P	P									
Fumigation chambers							C										
Industrial Service													P				
Telephone and telegraph exchange						P	P	P									
<b>Manufacturing and Production</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Abattoirs (enclosed within a building).												C					
Aircraft and aircraft component manufacturing or assembly																	P
Light Manufacturing													p				
Manufacturing (Heavy)													C				
Manufacturing and assembling of precision optics									P								P*
Manufacturing and assembling of precision testing equipment									P								P*
Manufacturing of ceramics products (only low pressure gas and previously pulverized clay permitted) ( Brick and tiles not permitted)									P								

# Newberg Development Code Zoning Use Table By Category Attachment 3

<b>Manufacturing and Production</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Manufacturing, assembling, testing and repairing of components, devices, equipment and systems of an electronic or electro-mechanical nature, such as, but not limited to: Audio systems and phonographs; Coils, tubes, semi-conductors and similar components										P							
Manufacturing, compounding, bottling, processing, packaging, or treatment of food and beverage products										C							
Manufacturing, compounding, bottling, processing, packaging, or treatment of food and beverage products (except fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages)											C	C					
Manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of articles, such as: Blueprints; Boats; Ceramics; Communication components and systems; Cosmetics											P		P				
Creameries; Drugs; Electrical and e																	
Newspaper printing establishments							P	P									
Plant nurseries						C											
Studios for manufacturing of pottery items, metal sculpture, and other artistic products.									P								
Wineries, breweries and distilleries													P*				
<b>Medical Related</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Laboratories, general										P*	P	P					
Laboratories, medical and dental							P	P									
<b>Warehouse and Freight Movement</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Air Cargo warehousing and distribution facilities																	P
Contractor's equipment or storage										C							

# Newberg Development Code Zoning Use Table By Category Attachment 3

<b>Warehouse and Freight Movement</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Industrial and commercial building uses												P	C				
Trucking yards and terminals											P						
Warehouse and distribution													P				
<b>Waste-Related</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Garbage dumps, sanitary land fills	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Incineration (garbage, dead animals, offal or refuse)												C					
Waste-related uses													C				
<b>Wholesale Sales</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Administrative and sales relating to industrial uses												P					
Bakeries, wholesale							P		P		P	P	P				
Wholesale business (material must be enclosed building)										P							
Wholesale Sales													P				
Wholesaling, warehousing and storing of the following, provided that all outdoor storage shall be enclosed within site-obscuring fences or walls: Automobiles, truck and buses Building materials, except no on-site wrecking or burning Consumer goods Contract											P						
<b>Institutional</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Cemeteries	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Pound, dog or cat (kennel)	C	C	C	C	C	C	C	C	C	C	P	P	C	C	C	C	C
Public and semi-public buildings	P*	P*	P*		P*	P*	P	P	P	P		P	P*			P*	P*

# Newberg Development Code Zoning Use Table By Category Attachment 3

Assembly	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Chapels						P	P	P	C*						P		
Churches	P*	P*	C	P*	P*	P*	P	P*/C*			P	P		C	P		
Churches, when using existing buildings	P	P															
Clubs, lodges and meeting halls							P	P									
Conference or meeting facilities									C								
Private Clubs, lodges and meeting halls			C	C													
<b>Community Service</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Ambulance service	C*	C*	C*		P*	P*	P	P			P	P	P		P		
Community centers	C	C	C	C	P									C	P		
Public buildings essential to the physical and economic welfare of an area																	P*
<b>Daycare</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Day care facilities															P		P*
Day nurseries	P	P	P	C	P	P	P						P/C				
<b>Detention Facilities</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Jails or penal farms	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		C
<b>Medical Related</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Blood banks							P	P									
Chiropractor					P	P	P	P									
Clinics			C		P	P	P	P									
Dentist					P	P	P	P									

Newberg Development Code Zoning Use Table By Category Attachment 3

Medical Related	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Emergency medical flight services																	P*
Health studios						P	P	P					P				
Hospitals	C	C	C		C		P	P							P*		
Hospitals (mental)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Laboratories, biochemical and X-ray					P										P		
Nonprofit hospitals and associated medical structures														C			
Nursing homes	C	C	C		C		C										
Optician					P	P	P	P									
Optometrist					P	P	P	P									
Osteopath					P	P	P	P									
Others licensed by the state to practice the healing arts					P	P	P	P									
Out patient laboratories															P		
Paramedic Service																	
Physicians					P	P	P	P									
<b>Recreation</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Golf Course	P	P	P											P			
Greenways, including but not limited to bicycle and pedestrian paths																P	P
Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Parks, playgrounds (private)	P	P	P	P	P				P								
Parks, playgrounds (public)	P	P	P	P	P				P					P			
Parks, playgrounds, open space and outdoor recreation facilities															P		

# Newberg Development Code Zoning Use Table By Category Attachment 3

Recreation	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Playgrounds, public														P			
<b>Schools</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Campus living organizations			P														
Classroom facilities															P		
Colleges	P*	P*	P		P*										P*		
Colleges (business or private)						P	P	P*/C*									
Dancing and music schools								P									
Music or dancing schools						P											
Schools relating to airport operation																	P*
Schools: ☐Elementary☐Junior high☐High school	P*	P*	P*		P*									C*			
Colleges☐Related buildings																	
Schools; business or private						P											
University Facilities															P*		
<b>Social Service</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Facilities (temporary care and/or lodging of adult indigent person)								P									
Facilities for the care/lodging of alcoholics	C	C	C	C	C	C	C	C	C								
Medically-related non-profit foundations or fund raising organizations																	
<b>Other</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Any building or uses determined to be similar to those listed in the "Buildings and Uses Permitted Conditionally " section of each zone.	C	C	C	C			C			C	C	C	C	C			

# Newberg Development Code Zoning Use Table By Category Attachment 3

	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Any building or uses determined to be similar to those listed in the "Permitted buildings and uses" section of each zone.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Planned unit developments	C	C	C	C	P	P	P	P	P	P	P	P	P				
<b>Residential</b>																	
<b>Accessory Residential</b>																	
Accessory Dwellings	C	P	P		P*												
Apartments, lofts, condominiums and similar dwelling units located above ground floor commercial uses								P									
Guest house															P		
Residence area for airport caretaker or security officer																	P*
Single-Dwelling residential located above permitted ground floor retail or commercial use									P								
<b>Dwelling Units</b>																	
Duplexes	P*	P	P	C	P												
Dwelling units						P*	P*/C*	P*/C*	P*/C*	P*/C*	P*/C*	P*/C*	C				
Manufactured dwelling parks				P													
Manufactured homes on individual lots	P*	P*	P*	P*	P*												
Manufactured homes within mobile home parks and mobile home subdivisions		P*															
Mobile home parks		P*	C	P													
Mobile home subdivisions		P*															
Modular homes	P																
Multi-family Dwellings	C*	P	P	C	P												

# Newberg Development Code Zoning Use Table By Category Attachment 3

Dwelling Units	Zoning Categories																
	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Single Family Dwellings, more than one per lot		P	P*		P												
Single Family Dwellings, one per lot	P	P	P*		P*												
Single Family, duplex (two family) and multifamily housing															P		
<b>Group Living</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Continuing care retirement community															P*		
Dormitories		C	P		P										P		
Group care facilities	C	C	C	C	C	C*	C										
Group care homes	P	P	P	P*	P	P	P*/C*										
<b>Transportation &amp; Utilities</b>																	
<b>Aviation Related</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Airports and landing fields	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Helipad															C		
Heliports and helistops	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
<b>Parking</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>
Parking areas; private			P	P	P*		P	P		P	P	P	p				
Parking areas; public			P	P			P	P		P	P	P	p				
Parking facilities: shared									C								
Parking garages; private			P	P			P	C*		P	P	P	p				
Parking garages; public			P	P			P	C*		P	P	P	p				
<b>Radio Frequency Transmission Facilities</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>RP</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>M-1</b>	<b>M-2</b>	<b>M-3</b>	<b>M-4</b>	<b>CF</b>	<b>I</b>	<b>AR</b>	<b>AI</b>

# Newberg Development Code Zoning Use Table By Category Attachment 3

Radio Frequency Transmission Facilities	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Radio Towers and Transmitters											P	P					
Radio, television broadcasting studios						P	P										
Telecommunication facility incorporated into existing structure/pole and no taller than 18 ft above existing structure/pole	C	C	C	C	C	P	P			P							
Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height										P	P		p				
Telecommunication facility, including radio towers and transmitters, which are either freestanding or are incorporated into an existing structure or existing utility pole and will extend above existing structure more than 18 ft						C	C	C		C			P*/C*		P*/C*		
Telecommunication facility, including radio towers and transmitters, which are over 100 feet										C*	C*	C*					
<b>Recreation</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Biking & Hiking facilities & trails									p								
Equestrian trails									P								
<b>Transportation</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Modification to streets standards ( minimum of 3 and maximum of 6 lots)	C	C	C	C	C	C	C	C	C						C		
Transit Centers							P	P	P	P	P	P	p		P		
Transportation & Improvements of Public Streets	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Trolley or transit utility facilities									C								
<b>Utilities</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Basic Utilities													P				
Sewage treatment plants	C	C	C	C	C	C	C	C	C								

Utilities	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Utility distribution plants and service yards											P	P					
Wastewater treatment plants	C	C	C	C	C	C	C	C	C	C	C	P	C	C	C	C	C
<b>Water Related</b>	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	CF	I	AR	AI
Boat charter services									p								
Boat launching or moorage facility or marina, including marine gas facilities accessory to a marina use.									C								
Pilings, piers, docks, & similar in-water structures									C								

## 2.4 – Industrial (I) Land Use Districts – Permitted Uses

**2.4.110 Land Uses Allowed in the Industrial Districts**

**Background:** The model code is designed to make it easier to mix compatible uses than is typically allowed under conventional zoning. Three types of designations are provided: “P” means the use is permitted with Land Use or Site Design Review (Chapter 4.2); “S” means the use is permitted with Special Use Standards (Section 2.300); and “CU” means the use is permitted with a Conditional Use Permit (Chapter 4.4). The code provisions are also intended to make it more difficult to place incompatible uses near one another; an “N” designation means the use is not permitted. Your city can use these designations as a graduated scale, making it easier to develop uses that are most consistent with community values and plans.

When using Table 2.4.110, be sure to check your existing land use standards to consider whether and how many existing legal land uses will be made nonconforming. Standards may need adjustment to minimize the number of non-conforming uses created.

**Statutes and Regulations:** Sections 2.3.110 and 2.3.190 address parts of OAR 660-012-0045 and 0060 by recommending design standards for commercial uses (e.g., offices and limited retail) where these uses are allowed in an industrial district.

2.4 – Industrial (I) Land Use Districts – Permitted Uses

Table 2.4.110 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Chapter 1.3 and 1.4.

<b>Table 2.4.110 – Land Uses Allowed in Industrial Districts</b>			
<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<i>[Reserve]</i>
<b>Residential Categories</b>			
<b>Household Living</b>			
All Residential Uses (Household Living and Group Living) allowed, if:  <ul style="list-style-type: none"> <li>- lawfully existing as of <i>[date]</i>, or</li> <li>- new dwelling built in conjunction with a permitted commercial or industrial use (residential use is allowed <i>above</i> ground floor only)</li> </ul> <i>Group Living Uses shall conform to the provisions in Section 2.2.200.</i>	<i>[P/N]</i>  N	P  P	
<b>Commercial Categories</b>			
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.190.A for uses in LI District	P	S	
Bed and Breakfast Inn	N	<i>[CU / N]</i>	
Educational Services, not a school (e.g., tutoring or similar services)	N	<i>[CU / N]</i>	
Entertainment, Major Event	N	<i>[CU / N]</i>	
Offices	<i>[P/CU+S]</i>	P	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.4 – Industrial (I) Land Use Districts – Permitted Uses

<b>Table 2.4.110 – Land Uses Allowed in Industrial Districts</b>			
<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<i>[Reserve]</i>
Outdoor Recreation, Commercial	N	<i>[CU / N]</i>	
Parking Lot (when not an accessory use)	CU	CU	
Quick Vehicle Servicing or Vehicle Repair (See also Drive-Up Uses)	P	S	
Retail Sales and Service, <ul style="list-style-type: none"> <li>- less than <i>[10,000]</i> square feet floor area</li> <li>- greater than <i>[10,000]</i> square feet floor area, per Section 2.4.140</li> </ul> See also, Drive-Up Uses	<i>[CU / P]</i> N	P <i>[CU / P]</i>	
Self-Service Storage	P	<i>[CU/P]</i>	
<b>Industrial Categories</b>			
Industrial Service (See also Drive-Up Uses) <ul style="list-style-type: none"> <li>- fully enclosed (e.g., office)</li> <li>- not enclosed</li> </ul>	P P	P <i>[CU / P]</i>	
Manufacturing and Production <ul style="list-style-type: none"> <li>- fully enclosed</li> <li>- not enclosed</li> </ul>	P P	P <i>[CU / N]</i>	
Warehouse and Freight Movement	P	<i>[CU / N]</i>	
Waste-Related	CU	N	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.4 – Industrial (I) Land Use Districts – Permitted Uses

<b>Table 2.4.110 – Land Uses Allowed in Industrial Districts</b>			
<i>Uses</i>	<i>Status of Use in District</i>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<i>[Reserve]</i>
Wholesale Sales, per Section 2.4.140 <ul style="list-style-type: none"> <li>- fully enclosed</li> <li>- not enclosed</li> </ul>	S  S	S  <i>[CU+S / N]</i>	
<b>Institutional Categories</b>			
Basic Utilities	P	P	
<i>[Colleges]</i>	<i>[CU / N]</i>	<i>[CU]</i>	
Community Service	<i>[CU / N]</i>	<i>[P / CU]</i>	
Daycare, adult or child day care; does not include Family Daycare (12 or fewer children) under ORS 657A.250	N	CU	
Parks and Open Space <ul style="list-style-type: none"> <li>- pedestrian amenities</li> <li>- parks and recreation facilities</li> <li>- other open space</li> </ul>	P  CU  P	P  CU  P	
Religious Institutions and Houses of Worship, <ul style="list-style-type: none"> <li>- lawfully existing as of <i>[date]</i></li> <li>- new</li> </ul>	P  N	P  <i>[P / CU]</i>	
Schools <ul style="list-style-type: none"> <li>- lawfully existing as of <i>[date]</i></li> <li>- new</li> </ul>	P  N	P  N	
<b>Other Categories</b>			

2.4 – Industrial (I) Land Use Districts – Permitted Uses

<b>Table 2.4.110 – Land Uses Allowed in Industrial Districts</b>			
<i>Uses</i>	<i>Status of Use in District</i>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<i>[Reserve]</i>
Accessory Structures (with a permitted use)	P	P	
Agriculture – Animals, when <ul style="list-style-type: none"> <li>- existing use as of <i>[date]</i></li> <li>- accessory to a permitted industrial use</li> <li>- new use</li> </ul>	P P N	P N N	
Agriculture – Nurseries and similar horticulture (See also, Wholesale and Retail Uses)	P	<i>[P / CU]</i>	
Buildings and Structures Exceeding the Height Limits in Table 2.3.120	CU	CU	
Mining	CU	N	
Radio Frequency Transmission Facilities <ul style="list-style-type: none"> <li>- within height limit of district</li> <li>- exceeds height limit (free-standing or building-mounted facilities)</li> </ul>	P CU	P CU	
Rail Lines and Utility Corridors, except those existing prior to effective date of Development Code are allowed.	CU	CU	
Temporary Uses (limited to “P” and “CU” uses), per Section 4.9.100.	P/CU	P/CU	P/CU
Transportation Facilities (operation, maintenance, preservation, and construction <i>[in accordance with the City’s Transportation System Plan]</i> )	P	P	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

## 2.4 – Industrial (I) Land Use Districts – Setback Yards and Industrial Buffers

## 2.4.120 Industrial Districts – Setback Yards; Industrial Buffers

**Background:** Section 2.4.120 is intended to provide flexibility in development. The standards ensure compliance with fire and building codes, separation between industrial district uses and adjacent residential areas, and pedestrian connections through large developments.

**A. Purpose.** Setback yards and buffers provide separation between industrial and non-industrial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation.

**B. Applicability.** The setback yard and buffer standards in subsections 2.4.120.C-F are minimum standards that apply to buildings, accessory structures, parking areas, mechanical equipment, and other development, but not buffers as required under subsection F). In granting a Conditional Use Permit, the approval body may increase the standard yards and/or buffers consistent with the criteria in Chapter 4.4. The approval body may also decrease the standard yards and/or buffers through the CUP process, provided that all applicable building and fire safety codes (subsection G) are met.

**C. Front and Street Yard Setbacks.**

1. General Industrial (GI) District: Minimum of [20] feet;
2. Light Industrial (LI) District: Minimum of [10] feet

**D. Rear Yard Setbacks.**

1. General Industrial (GI) District: Minimum of [20] feet where adjacent to a Commercial or Industrial District, except common wall buildings with 0-setback are allowed;
2. Light Industrial (LI) District: Minimum of [10] feet where adjacent to a Commercial or Industrial District, except common wall buildings with 0-setback are allowed;
3. Industrial District (GI or LI) Abutting a Residential District: Minimum of [40] feet, and conformance with the RL height step-down standards in Section 2.2.170.C.

**E. Side Yard Setbacks.** There are no required side-yard setbacks, except a minimum of [20-40] feet and conformance with the RL height step-down standards in Section 2.2.170.C is required when an Industrial District (GI or LI) abuts an RL District.

**F. Buffering Other Yard Requirements.**

1. Buffering. The approval body may require landscaping, fences, walls or other buffering that exceed the landscaping standards in Chapter 3.2 when it finds through Site Design Review (Chapter 4.2), Conditional Use Permit review (Chapter 4.4), and/or Master Planned Development review (Chapter 4.5), as applicable, that more or different buffering is necessary mitigate adverse noise, light, glare, and/or aesthetic impacts to adjacent properties.
2. Pedestrian Access. The approval body may require the construction of pedestrian access ways through required buffers to ensure pedestrian connections within large

**2.4 – Industrial (I) Land Use Districts – Setback Yards and Industrial Buffers**

developments, between multiple development phases, or connecting to public sidewalks, walkways, or multi-use pathways. The design of access ways shall conform to Section 3.1.300.

## 2.4 – Industrial (I) Land Use Districts – Lot Coverage; Site Layout and Design; Building and Structure Height

## 2.4.130 Industrial Districts – Lot Coverage

**Background:** Section 2.4.130 is intended to provide flexibility in development while ensuring some provision of open space for landscaping and stormwater management.

- A. General Industrial (GI) District:** Maximum lot coverage, including all impervious surfaces, [80-90] percent.
- B. Light Industrial (LI) District:** Maximum lot coverage, including all impervious surfaces, [70-80] percent.

## 2.4.140 Industrial Districts – Site Layout and Design

**Background:** Section 2.4.140 is intended to provide flexibility in development while providing for compatibility of industrial uses through the application of discretionary standards. This section also ensures the creation of a local street network in large developments (LI District only).

**Statutes and Regulations:** Section 2.4.140 implements parts of Transportation Planning Rule (OAR 660-012-0045) related to the formation of connected street systems.

**A. Development Compatibility.** Industrial uses and developments shall be oriented on the site to minimize adverse impacts (*e.g.*, noise, glare, smoke, dust, exhaust, vibration, etc.) and to provide compatibility with adjacent uses to the extent practicable. The following standards shall apply to all development in the General Industrial and Light Industrial Districts:

1. Mechanical equipment, lights, emissions, shipping/receiving areas, and other components of an industrial use that are outside enclosed buildings, shall be located away from residential areas, schools, parks and other non-industrial areas to the maximum extent practicable; and
2. The City may require a landscape buffer, or other visual or sound barrier (fence, wall, landscaping, or combination thereof), to mitigate adverse impacts that cannot be avoided, as provided in Section 2.4.120.

**B. Large-Scale Commercial Development – LI District Only.** Developments containing [40,000-100,000] square feet or more commercial, retail, wholesale, or office floor area in a Light Industrial District shall have pedestrian-oriented design. This standard is satisfied when the approval body finds that a development meets the all of the following criteria:

1. The commercial block layout standards in Section 2.3.150.D are met; and
2. The architectural standards in Section 2.3.170 are met. For the purpose of meeting the *build-to line* standards in subsection 2.3.170.B(4), the build-to line is parallel to all abutting street property lines at a distance of [20] feet from the street property line.

## 2.4.150 Industrial Districts – Building and Structure Height

The maximum allowable height of buildings and structures in the GI and LI districts is [35] feet, except that taller buildings and structures are allowed when approved as part of a Conditional Use Permit, provided they conform to the RL height step-down standards in Section 2.2.170.C.

2.4 Schedule 12-2. Permitted Uses and Site Plan Review Procedures														
Zoning Districts														
Land Use Types	Residential						Commercial				Industrial			
	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I		
General activities not covered below, exempt from Development Permit													P-I-EX. See Section 2.033	
General activities not covered below, requiring an administratively issued use permit													P-I-AU. See Section 2.034	
General activities not covered below, where Building Permit serves as Development Permit													P-I-A. See Section 2.035	
1) Agriculture														
a) Intensive	P-I-EX	-	-	-	-	-	-	-	-	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX
b) Non Intensive	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX
c) Forestry	P-I-EX	-	-	-	-	-	-	-	-	-	-	-	-	-
2) Residential Dwelling Unit														
a) Existing	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)	P-I-A (c)
b) New														

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
1. Detached (1)	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	-	P-I-A	P-I-A	-	-	-
2. Detached (2)	PUD	PUD	P-II	P-I-A	P-I-A	P-I-A	-	P-I-A	P-I-A	-	-	-
3. Duplex	PUD	PUD	P-II	P-IA	P-IA	P-IA	-	P-I-A	P-I-A	-	-	-
4. Multi-Dwelling	PUD	PUD	PUD	P-II	P-I-C	P-I-C	-	P-I-C	P-I-C	-	-	-
5. Manufactured Housing												
“A” Individual Lot	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	-	P-I-A	P-I-A	-	-	-
“B” Manufactured Dwelling Park	-	-	-	P-III (d)	P-III (d)	P-I-C	-	-	-	-	-	-
“C” Health Condition	P-II	P-II	P-II	P-II	P-II	P-II	-	P-II	P-II	-	-	-
c) Group Quarters	-	-	-	-	-	P-II	-	-	P-II	-	-	-
d) Home Occupation												
1. Occupational Use, per 14.211	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX (f)	P-I-EX	P-I-EX	P-I-EX (f)	P-I-EX (f)	P-I-EX (f)
2. Minor, per 14.220	P-I-AU	P-I-AU	P-I-AU	P-I-AU	P-I-AU	P-I-AU	P-I-AU (f)	P-I-AU	P-I-AU	P-I-AU (f)	P-I-AU (f)	P-I-AU (f)
3. Major, per 14.220	P-II	P-II	P-II	P-II	P-II	P-II	P-I-C (f)	P-I-C	P-I-C	P-I-C (f)	P-I-C (f)	P-I-C (f)
e) Residential Accessory -Building -Use	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX (e)	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX (e)	P-I-A P-I-EX (e)	P-I-A P-I-EX (e)
f) Transient Quarters	-	-	-	-	-	-	-	-	-	P-III	-	P-III
g) Residential Home, per 14.510	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A (f)	P-I-A	P-I-A	P-I-A (f)	P-I-A (f)	P-I-A (f)

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
h) Residential Facility, per 14.521	P-II	P-II	P-II	P-II	P-I-C	P-I-C	P-I-C	P-I-C	P-I-C	-	-	-
i) Dwelling, Accessory	-	-	-	-	-	-	P-I-C	P-I-C	P-I-C	-	-	-
3) Trade												
a) Retail Indoor	-	-	-	-	-	-	P-II	P-(a)	P-(a)	P-(b)	-	-
b) Retail Outdoor	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
c) Wholesale	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
d) Itinerant Use, per 14.120	-	-	-	-	-	-	-	P-I-AU	P-I-AU	-	-	-
4) Services												
a) Professional Office	-	-	-	-	-	P-II	-	P-(a)	P-(a)	P-(b)	P*-(b)	-
b) Business Office	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	-
c) Limited Office	P-II	P-II	P-II	P-II	P-II	P-II	-	-	-	-	-	-
d) Repair/Maintenance, Commercial	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	P-(b)
e) Auto Service Station	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
f) Eating/Drinking Establishment	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	P-(b)
g) Hotel/Motel	-	-	-	-	-	-	-	P-(a)	P-(a)	-	-	-
h) RV Parks	-	-	-	-	-	-	-	P-III	-	-	-	-
i) Day Care/Family, per 14.310	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A (f)	P-I-A	P-I-A	P-I-A (f)	P-I-A (f)	P-I-A (f)
j) Day Care/Group, per 14.320	P-II	P-II	P-II	P-II	P-II	P-II	-	P-II	P-II	P-II	P-II	P-II

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
k) Group Care	-	-	-	P-III	P-III	P-III	-	P-(a)	P-(a)	-	-	-
l) Hospitals	-	-	-	-	-	P-III	-	P-III	-	-	-	-
m) Vet. Clinics	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
n) Commercial Accessory -Building -Use	-	-	-	-	-	-	P-(g) P-EX	P-(g) P-EX	P-(g) P-EX	P-(g) P-EX	-	-
o) Bed & Breakfast, per 14.420	P-II	P-III	P-III	P-III	P-III	P-II	-	P-(a)	P-(a)	-	-	-
p) Voluntary Parking -Local Impact -Area Impact	- -	- -	- -	P-II P-III	P-II P-III	P-II P-III	- -	- -	- -	- -	- -	- -
q) Personal Service	-	-	-	-	-	P-II	P-(a)	P-(a)	P-(a)	P-(b)	-	-
5) Recreation												
a) Residential -Local Impact -Area Impact	P-I-C P-II	P-I-C P-III	P-I-C P-III	P-I-C P-II	P-I-C P-II	P-I-C P-II	- -	- -	- -	- -	- -	- -
b) Commercial -Local Impact -Area Impact	- -	- -	- -	- -	- -	- -	P-(a) -	P-(a) P-(a)	P-(a) P-(a)	P-(b) P-(b)	- -	- -
c) Athletic Clubs	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	P-(b)	P-(b)
6) Public												
a) Minor Public	P-II (h)	P-III (h)	P-III (h)	P-II (h)	P-II (h)	P-II (h)	P-(a) (h)	P-(a) (h)	P-(a) (h)	P-(b) (h)	P-(b) (h)	P-(b) (h)
b) Major Public	-	-	-	-	-	-	-	-	-	P-(b)	P-(b)	P-(b)
c) Schools	P-II	P-III	P-III	P-III	P-II	P-II	-	P-(a)	P-(a)	P-(b)	-	-
<sup>27</sup> d) Religious Assembly	P-II	P-II	P-II	P-II	P-I-C	P-I-C	P-(a)	P-(a)	P-(a)	P-(b)	P-(b)	P-(b)

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
<sup>27</sup> e) Cultural Exhibit and Libraries	P-II	P-III	P-III	P-III	P-II	P-II	P-(a)	P-(a)	P-(a)	P-(b)	P-(b)	P-(b)
f) Cemeteries	P-III	P-III	P-III	P-III	-	-	-	-	-	P-(b)	-	-
g) Mortuaries	-	-	-	-	-	P-III	-	P-(a)	-	P-(b)	-	-
h) Lodges	-	P-III	P-III	P-III	P-II	P-II	-	P-(a)	P-(a)	P-(b)	-	-
i) Commercial Parking	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	-
<sup>20</sup> j) Transportation Facilities outlined in the Master Transportation Plan, and local access streets	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)
<sup>21</sup> k) Transportation Facilities not outlined in the Master Transportation Plan, nor part of a subdivision or PUD, nor local access streets	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II
<sup>27</sup> l) Public Parks	P-III	P-III	P-III	P-II	P-II	P-II	-	P-II	P-II	P-II	-	P-II
7) Industrial												
a) Repair/Maintenance, Industrial	-	-	-	-	-	-	-	-	-	P-(b)	-	P-(b)
b) Indoor	-	-	-	-	-	-	-	-	-	P-(b)	P-(b)	P-(b)
c) Outdoor	-	-	-	-	-	-	-	-	-	-	-	P-(b)
d) Prohibited	-	-	-	-	-	-	-	-	-	X	X	X
e) Industrial Accessory -Building -Use	-	-	-	-	-	-	-	-	-	P-(g) P-I-EX	P-(g) P-I-EX	P-(g) P-I-EX
f) Outdoor Storage	-	-	-	-	-	-	-	-	-	P-II	-	P-II

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
8) Temporary Uses	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	P-(b)	P-(b)
<sup>26g</sup> ) Telecommunication Facility												
a) New Transmission Tower	-	-	-	-	-	-	-	C-(i)	-	C-(i)	C-(i)	C-(i)
b) Rooftop Mounted Antenna	C-II	C-II	C-II	C-II	C-II	C-II	C-II	C-I-C	C-I-C	C-I-C	C-I-C	C-I-C
c) Façade-Mounted Antenna	C-II	C-II	C-II	C-II	C-II	C-II	C-II	C-I-C	C-II	C-I-C	C-I-C	C-I-C
d) Collocated Antenna on Existing Transmission Tower or Other Structure Other Than Building Rooftop or Façade	C-II	C-II	C-II	C-II	C-II	C-II	C-II	C-II	C-II	C-I-C	C-I-C	C-I-C
e) Ancillary Facilities Located Within an Existing Permanent Permitted Structure	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A

**Table Legend:**

P	=Permitted Use
-	=Use Not Permitted
X	=Use Specifically Prohibited (Uses defined in Article 30 as “Industrial, Prohibited”)
C	=Use Conditionally Permitted (See Article 16)
I-EX	=Type I Procedure, Exempt from Development Permit Review, Section 2.033
I-AU	=Type I Procedure, Administrative Use Permit Review Only, Section 2.034
I-A	=Type I Procedure, Building Permit Serves as Development Permit, Section 2.035
I-B	=Type I Procedure, Director’s Decision without Comment Period, Section 2.036
I-C	=Type I Procedure, Director’s Decision with Comment Period, Section 2.037
II	=Type II Procedure, Hearings Officer’s Decision, Section 2.040
III	=Type III Procedure, Planning Commission’s Decision, Section 2.050
IV-A	=Type IV Procedure, City Council Decision without Planning Commission Recommendation, Section 2.060
IV-B	=Type IV Procedure, City Council Decision with Planning Commission Recommendation, Section 2.060
V	=Type V Procedure, Joint Board of County Commissioners & City Council Decision with Planning Commission Recommendation, Section 2.070
*	=Professional Office use permitted in the Industrial Park District only when subject property is located within the Medical Overlay District.

**Table Notes:**

- (a) A Type II Procedure is required if the subject property adjoins a residential zone, otherwise a Type I-C Procedure is required.
- (b) A Type II Procedure is required if the subject property adjoins a residential or commercial zone, otherwise Type I-C Procedure is required.
- (c) Type I-A, except the following are exempt (Type I-EX): operation, maintenance, repair, and preservation of existing transportation facilities; dedication or public acquisition of rights-of-way and easements; authorization of construction and construction of facilities and improvements, where the improvements are within the existing right-of-way or easement area or are consistent with clear and objective dimensional standards; and emergency measures necessary for the safety and protection of property.
- (d) Manufactured Dwelling Parks are not permitted in commercial or industrial zones or commercial or industrial Comprehensive Plan land use districts. Siting of an individual home within an approved manufactured dwelling park requires a Type I-A procedure.
- (e) An existing residential dwelling unit is a permitted use in this zone. In zones where a new residential dwelling unit is not a permitted use, this provision allows the existing residential dwelling unit to continue or expand without being subject to the nonconforming use provisions of the Development Code. There may be nonconforming development provisions that are applicable. If an existing dwelling unit is removed in a zone where a new dwelling unit is not permitted, it shall not be replaced.  
  
 In zones where a new residential dwelling unit is not a permitted use, this provision does not allow for expansion that increases the number of dwelling units.  
  
 In zones where a new residential dwelling unit is not a permitted use, this provision allows for a new residential accessory structure or accessory use associated with the existing residential dwelling.
- (f) These uses are permitted within an existing dwelling unit only, since a new dwelling unit is not permitted in the zoning district.
- (g) A commercial or industrial accessory building of 400 square feet or less that comprises less than 25 percent of the existing floor area of buildings and meets the definition of a minor modification in Section 19.058 of this Code is reviewed through a Type I-A procedure. All other commercial or industrial accessory buildings are subject to the applicable site plan review procedures.
- (h) A Type I-A Procedure is required for water and sewer pump stations. All other minor public facilities are reviewed through the procedure specified in the table.
- (i) A Type III Procedure is required if the tower height exceeds the zone height limit, otherwise a Type II Procedure is required.

# Smart Growth Tactics

Putting the MLULC Recommendations into Action—A How to Series for Local Leaders

## RELIANCE ON DESIGN CONCEPTS AND PATTERNS TO PRESERVE COMMUNITIES

The Michigan Land Use Leadership Council (MLULC) recognizes the importance of training, education, and knowledge as the means and methods of managing land use change and community development.

The MLULC's 2003 final report includes recommendations for planning and development regulation and encourages a public education campaign that includes concepts to help citizens better understand the implications of the continuation of land use trends and the benefits of better planned development in general. Additionally, it includes the specific benefits of alternative design schemes that focus on density rather than minimum lot sizes including: density-based zoning, new urbanism, and diverse socio-economic development patterns.

In an effort to continue the momentum and application of the MLULC's recommendations, this issue of *Smart Growth Tactics* focuses on form-based codes (an outgrowth of new urbanism). A form-based code is a land development regulatory tool that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of "place." The base principle of form-based coding is that design is more important than use. Where conventional zoning controls land use and focuses on separating land uses, form-based coding focuses on form as it relates to streetscape and adjacent uses.

This issue will provide: an overview of the principles associated with form-based codes; a discussion on the differences between conventional zoning and form-based codes; and introduce the structure of form-based codes and the process to developing form-based codes. The article will additionally provide examples of Michigan communities utilizing form-based codes and the potential pitfalls associated with their use.

## Form-based codes – new approach to zoning

### FORM-BASED CODES AN EFFECTIVE TOOL FOR SMART GROWTH

As part of Smart Growth strategies, communities are examining development regulations to determine the extent to which the existing regulations may be posing an obstacle to Smart Growth. A great deal of attention is paid towards how development regulations have shaped our communities.

An evaluation of development trends and the zoning requirements of many communities identified serious problems associated with uncontrolled urban sprawl and the loss of community character in suburban communities. In many instances, conventional zoning regulations are the major contributors towards creating the sprawling, automobile-oriented environment that dominates many Michigan communities.

Zoning was created in the early 20th century as a response to problems associated with overcrowding in central cities and the intrusion of heavy industry into retail and residential areas. Developed in the later years of the industrial revolution, zoning sought



**Communities such as Grand Rapids are using form-based codes to document the urban fabric of their community and develop regulations that ensure that the most valuable qualities of the community are not only retained, but that new development fits into the character of the neighborhood, as well.**

to address these problems through separating incompatible uses and limiting residential density. However, the evolution of zoning in concert with rapid suburbanization has had the effect of dispersing suburban development over large areas of land and creating a host of problems such as loss of farmland, increased environmental impacts, greater auto-dependency, inefficient provision of public services, and loss of community character within the suburbs. While there is a resurgence of interest in older, more traditional urban communities, existing zoning regulations make redevelopment of urban communities more difficult by applying suburban zoning standards.



**A new urbanist development in Beverly Hills, Michigan includes traditional homes on small lots and pedestrian-oriented streetscape.**

Larger setbacks and excessive parking requirements make many cherished urban buildings and spaces nonconforming.

Form-based codes focus land use regulation towards creating more livable communities. The approach uses traditional community character to create and maintain a more human-scale environment. Unlike conventional zoning that focuses on separating land uses, form-based code focuses on building form as it relates to streetscape and adjacent uses. Form-based codes allow for a mixture of land uses based upon the context of building form. As a result, compatibility of uses is achieved through design and orientation, instead of strict land use separation. Where conventional zoning focuses on use and development of an individual lot, form-based codes focus on the role that individual buildings serve in shaping the public streetscape. Form-based codes rely on design concepts and patterns intended to preserve the assets of a community, creating more livable environments and spaces.

**PROBLEMS WITH EUCLIDEAN ZONING**

The conventional form of zoning currently used throughout Michigan and the United States is what is commonly referred to as Euclidean

zoning. This name is derived from the 1926 United States Supreme Court decision in *Euclid v. Ambler Realty Co.* (272 U.S. 365) to uphold the constitutional validity of zoning. Euclidean zoning has been in place in Michigan since 1921 with the City and Village Zoning Act, Public Act 207 of 1921. Enabling legislation for townships and counties soon followed in 1943.

When the city of Detroit adopted its first zoning ordinance in 1920, the city sought to address different problems than those of today. In 1920, overcrowded tenement housing and the intrusion of heavy industrial uses into commercial and light industrial areas created serious public health and welfare problems. These problems are at the root of land use separation and density limits which are the core of virtually all zoning ordinances today.

Michigan communities have experienced many changes over the past 80 years. With this, a new set of challenges in how to regulate development resurfaces. Instead of concerns with overcrowding in cities, the focus is now on the negative impacts that uncontrolled sprawl has on the landscape of Michigan. And while the need to separate housing from heavy industry is still a valid concern, planners are now concerned with use-segregated

suburbs, where it is not possible to walk to the corner store or for children to walk to school.

The New Urbanism movement (1980 to present) has attracted a great deal of interest in re-creating walkable, mixed-use neighborhoods. As an outgrowth of this movement, form-based codes are the latest technique to re-examine the underlying zoning principle of separating uses and instead provide new means to develop vibrant mix-use communities. This is accomplished by placing a strong focus on the creation of proper urban form, wherein a mixture of uses can flourish.

**DESIGN STANDARDS AND OTHER ATTEMPTS TO IMPROVE LAND USE REGULATION**

In response to the limitation of Euclidean zoning, a number of zoning techniques have been created with varied levels of success. These include mixed-use planned unit developments, cluster development, performance zoning, and design standards.

Planned unit developments (PUD) have been used for many years as an effective means of developing coordinated larger sites. (The first evidence of a PUD was created in 1949 in Prince Georges County, Maryland.) However, in many instances, what is intended to be a “mixed-use” development actually ends up being “multiple-use,” where there are separate and distinct areas of land uses that are not truly integrated into a mixed-use development. The other limitation of a PUD is that it is designed primarily for the development of larger sites, and with few exceptions, is not well suited for use on individual lots in an urban environment.

Clustered open space developments have had success in preserving open space and natural features. This type of development tends to offer recreational amenities not available in conventional subdivisions. While open space developments are a significant improvement



**Design standards can improve the appearance of the building and site landscaping, but are not effective in changing the underlying form.**

from conventional zoning, the developments still tend to be separated, single-use tracts of land.

Many communities have adopted design standards in a variety of forms. Some have adopted separate design guidelines or relied on the guidelines contained within the master plan. However, recent court decisions have held that a community cannot enforce requirements that are not specified in the ordinance.

Instead of guidelines, design standards for architectural and landscaping requirements are now becoming more common place within zoning ordinances. Some communities have adopted architectural regulations that require use of high-quality building materials. Others include discretionary standards whose result can be unpredictable and run the risk of inconsistent application. While these design standards have been effective in improving the appearance of buildings and landscaping, the standards fail to create meaningful change in the urban form – the end result is usually aesthetically-pleasing sprawl.

**PRINCIPLES ASSOCIATED WITH FORM-BASED CODES**

The Form-Based Codes Institute defines form-based codes as “[a] method of regulating development to achieve a specific urban form. Form-based codes create a predictable public realm by controlling physical form primarily, and land uses secondarily.” Form-based codes go beyond conventional zoning

by addressing the relationship of the building to the streetscape and the proper relationship between buildings in order to define a desired urban form.

First and foremost, form-based codes are place-based. The codes are adapted to fit the unique characteristics of a community and intended to require that new development fit within the context of the existing community and reinforce a unique sense of place.

Next, form-based codes allow for the unique ecology of a community by permitting a mixture of uses. The codes reflect the importance of the relationship between various uses

and building types to one-another, as part of an integral neighborhood and overall community.

Form-based codes are purposeful and not reactive. Conventional zoning tends to be reactive in that it restricts and focuses on preventing development that would be damaging to neighboring properties or the community (i.e. zoning tells you what you cannot do). Form-based codes, on the other hand, document the desired form of development and prescribe building form requirements to achieve the desired community vision.

Form-based codes connect the urban form and land use by providing for specific building types that are suited for the appropriate land use. They also relate the use and building type to the streetscape to comprehensively address the desired urban form for the neighborhood.

Form-based codes provide for development that is compact, mixed-use, and pedestrian friendly to create livable neighborhoods and healthy vibrant communities.



**Farmington has adopted a form-based code as part of the central business district that reflects the traditional urban fabric that the community values.**

And finally, form-based codes are graphic and designed to be easy to use and understand.

## KEY DIFFERENCES BETWEEN CONVENTIONAL ZONING AND FORM-BASED CODES

1. Conventional zoning is use-based, with a community divided into zoning districts which segregate land uses. Form-based codes de-emphasize use and divide a community into neighborhoods or specific street corridors, that have a distinct and consistent character, while allowing a mixture of compatible uses.
2. Conventional zoning attempts to create uniformity throughout a district by applying uniform intensity parameters such as setback, height, density, and floor area ratios. Form-based codes embrace diversity in neighborhoods by reflecting different standards for different types of buildings. Because use and building type are tied together, the standards ensure the building form relates properly to the streetscape and adjacent uses.
3. Where conventional zoning focuses on use and dimensional requirements, form-based codes focus more on the building form and how it relates to the public streetscape. In order to define the streetscape, form-based codes often prescribe build-to-lines where buildings are required to be set a specific distance from the front



**Example of a mixed-use building with retail on the first floor and residential on the upper floors. Specific design elements for retail along the sidewalk include window articulation and treatment at the corner.**

lot line. Conventional zoning uses minimum setbacks to create building envelopes; however, the ultimate location and form of the building within the envelope is unpredictable. As a result, conventional zoning has a primary focus on the lot and pays little to no attention to the streetscape. Form-based codes take a more holistic approach by considering the building form as it relates to the streetscape.

4. Conventional zoning has limited ability to effect change, as it tends to prohibit development that is determined to be inappropriate. Form-based codes are more

prescriptive and do a better job of describing the desired urban form. The result is the development of a neighborhood that encourages pedestrian activity, social interaction, and local investment.

## WHAT IS REGULATED

An underlying premise of form-based codes is that the public realm (i.e. the streetscape) is defined by the buildings that line it. Because of this, building placement and site orientation are paramount in the form-based code. The front building line location is based upon the type of street frontage. In a traditional downtown setting, there would be a “zero front lot line” or “build-to” requirement with all parking required to be at the rear of the building. In a residential neighborhood, there would be a requirement that the front of a residence be placed at a specific setback from the front lot line.

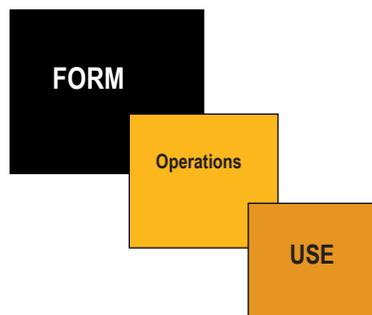
Once the streetscape has been defined by the building placement, the building elements can be considered to ensure that the building relates properly to the streetscape and adjacent buildings. In a business district, this would include requirements for doors and windows

### Conventional Zoning



**Focused on use**

### Form-Based Codes



**More focus on design and form**

along the sidewalk, window articulation on upper floors, building expression lines, and other details such as cornices. In residential areas these may be requirements for front porches or a limitation on front-loaded garages.

While uses are secondary to building form, they are nonetheless still important. Similar to a conventional zoning ordinance, different uses are allowed in each zone or district. Form-based codes allow a greater mixture of uses, but tie the use to the required building form. Unlike most conventional zoning ordinances, form-based codes also regulate use on the vertical plane. In a downtown setting, there may be a requirement for retail uses on the first floor and an allowance for residential or office on upper floors. There may also be a requirement along a downtown “Main Street” for mandatory retail frontages on the first floor to create a strong synergy between retail uses and an interesting environment for shoppers.

Form-based codes also contain regulations for accessory structures and uses. This includes specific requirements for the placement and design of parking lots. Other elements such as accessory buildings, loading areas, waste receptacles, screening walls, landscaping, and lighting are also addressed.

Another major improvement in the form-based code approach is that it goes beyond just regulating the site, by tying together the site and the public realm (i.e. the streetscape). Building regulations relate to design requirements for streets, sidewalks, on-street parking, street trees, and public spaces such as plazas.

An important aspect of a form-based code is that all of the regulations be tied together. The use is tied directly to the building type. The building type in-turn dictates form and building elements. The building form also relates to the street frontage, tying all of the elements together.

## HOW FORM-BASED CODES ARE STRUCTURED

The form-based code is based upon a regulating plan. A regulating plan is analogous with and functions similarly to a zoning map, except that it provides a greater amount of specificity to the street types, block dimensions, and building lines. Regulating plans may also indicate the locations for parks, squares, and plazas. For downtown shopping districts, the regulatory plan may indicate a mandatory retail frontage.

The zone on the regulating plan permits specific uses and corresponding building types. Building types may include single family dwellings, townhouses, live-work units, retail buildings, and others. The underlying principle is that the use, building, and street are interrelated.

Based upon the zone and the building type proposed, there are specific placement and building envelope requirements. These graphically depict building lines, setbacks, building height, and parking lot location. These requirements can be compared to the schedule of area and bulk requirements in a conventional zoning ordinance, except that they rely more on graphics to depict requirements and tend to be more prescriptive (e.g., building lines state exactly where the front of the building is required to be placed, instead of stating minimum setbacks). Building height is often defined in both minimum and maximum measurements to ensure that the building is tall enough to define the streetscape, but not so tall that they overwhelm other buildings.

Building elements are required relative to the type of building proposed. These include standards for building materials, doors and windows, building expression lines, front porches, etc. Note that most form-based codes do not regulate architecture – if the building has the proper form, then the architectural style of the building is less important. However, it may be appropriate to include architectural regulations in a

## POTENTIAL PITFALLS WITH FORM-BASED CODES

While form-based codes are effective tools that can help realize a community's vision, they are not a panacea that will cure all problems. There are some limitations of form-based codes and some problems that the codes may present to local communities:

Form-based codes tend to cost two to four times that of a conventional zoning ordinance. This is because of the upfront effort required to complete a detailed inventory of the community's existing urban form, the additional public involvement, and design work that goes into creating the regulating plan and the code.

Form-based codes require an illustrative regulating plan that is often based upon some form of urban design plan. This type of plan tends to be more involved than a zoning map.

Since Michigan streets are often regulated by separate authorities, there may be limited ability for a form-based code to regulate existing public streets. This may be more of a problem in townships, where all of the roads fall under the jurisdiction of the road commission, and less of a problem in cities that control their own city streets.

Form-based codes are prescriptive and very rigid, which may be viewed by developers as a limitation on what they can do with their property and a limitation on an architect's creativity.

There is a lack of specific enabling legislation as the Michigan Zoning Enabling Act (Public Act 110 of 2006) does not specifically provide for form-based codes. However, these types of codes are being developed throughout the United States and in other states, without specific enabling legislation.

A criticism of new-urbanism (which form-based codes are closely tied to) is that it is not environmentally sensitive; however, by developing more compact communities, the amount of land consumed by urban sprawl and dependence on the automobile is reduced. And unlike much of the new-urbanist developments that are “new towns,” advocates of form-based codes have used form-based codes more as a tool to facilitate infill and redevelopment within existing urban communities.

# How do form-based codes work in the real world?

Form-based codes have been adopted by communities throughout the country. Some applications in Michigan are as follows:

*Downtown Farmington:* As part of the City of Farmington's Downtown Development Plan, there is a detailed urban design plan that includes specific downtown design standards. The city wanted to promote redevelopment within the existing downtown while ensuring that the zoning regulations would be reflective of the existing community character and the recommendations of the plan.

A form-based code was prepared for the Downtown Zoning District to encourage redevelopment that embraces the historic character of Farmington, including traditional storefronts and a pedestrian scale environment. The form-based code requires buildings be built to the front lot line and parking lots be located in the rear. In order to maintain a well-defined streetscape, maximum and minimum building heights are included. Detailed building design standards to ensure that buildings relate properly to the streetscape at a pedestrian scale are included. Not only does the ordinance permit a vertical mixture of uses, but it builds in incentives to encourage mixed-use developments.

*Genoa Town Center:* As part of its master plan, Genoa Township identified a location for a new Genoa Town Center. The new town center location was centered on one



**A form-based code was developed for Downtown Farmington to encourage infill development while preserving the traditional pedestrian-friendly character of the city.**

of the few remaining large vacant areas along the Grand River Avenue corridor between Brighton and Howell. The township wanted to see a high quality, mixed-use development for this site that would create a new town center and also serve as a catalyst for redevelopment of the older commercial properties in the immediate area. As part of the master plan process, the township developed a detailed urban design plan for the new town center area.

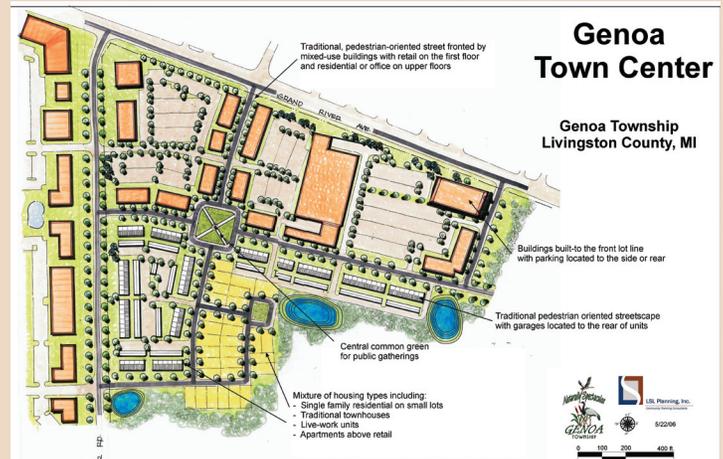
The Genoa Town Center is planned to become a mixed-use town center with local businesses, neighborhood service establishments, and traditional residential neighborhoods. Residential uses will provide a variety of housing types including apartments on upper floors above commercial uses, traditional townhouses, and single family homes on smaller lots. This area will be integrated into a pedestrian-friendly, walkable area with sidewalks connecting all uses and community parks and plazas.

To implement the Genoa Town Center, a form-based code overlay zoning district was adopted that requires all new development to follow strict requirements for a more traditional form of development that is more characteristic of a small town. The overlay zone not only allows for a mixture of uses, but has incentives to encourage truly integrated mixed-use development. The overlay zone includes building placement requirements that create traditional, pedestrian-friendly streetscapes and reduce the dominance of the automobile. It also includes detailed design standards for buildings, streetscapes, and public open spaces.

*Grand Rapids:* The City of Grand Rapids is nearing completion of an ambitious project to convert its 1967 zoning ordinance to a modern form-based code. It was clear that simply updating the original ordinance would not further the goals of the city's new Master Plan: a Plan that emphasizes neighborhood preservation while transforming the landscape

in critical areas.

An extensive public outreach effort revealed the desire of neighborhood groups, business associations, and others, to develop flexible, user-friendly land use regulations. Accordingly, the code includes a number of unique elements: increased use of administrative approvals, flexible nonconforming use and building regulations,



and incentives for quality design and development.

The language of form-based codes is developed with an eye toward the specific physical plan. This includes a broad range of regulations that encompass building alignment toward the street (setbacks, building orientation), spaces between buildings (side setbacks, separation between disparate uses), and heights, each of which can be described in ranges of acceptable values.

This effort represents the most significant attempt to introduce form-based codes for a city the size of Grand Rapids in the state of Michigan, and in much of the country as well.

## IS A FORM-BASED CODE RIGHT FOR YOUR COMMUNITY?

Form-based codes can be an effective tool that can be used in most communities. Some communities are appropriate for a community-wide form-based code, while others should utilize this new technique for certain subareas. Most importantly, the community must have a commitment to create a better place and undergo the process of gaining consensus on the desired urban form of the community. Form-based codes can be an effective tool in

9.04.03 **Neighborhood Street Frontage.** Sites with frontage along Neighborhood Streets shall meet the following dimensional requirements:

<b>Lot Area/Density</b>	<b>Single family:</b> Minimum 5,000 square foot lot area; minimum 4,500 square feet for lots with rear alley. <b>Townhouses:</b> Up to 14 units per acre permitted-by-right; the Township Board may grant special land use approval for up to 28 units per acre.	<p>Single family residential placement</p>
<b>Lot Width</b>	<b>Single family:</b> Minimum 50-foot lot width; minimum 45 foot lot width for lots with driveway access to a rear alley. <b>Townhouses:</b> No minimum.	
<b>Front Yard Requirements</b>	<b>Single family:</b> Minimum 20-foot front yard setback. <b>Townhouses:</b> Minimum 5-foot front yard setback.	<p>Townhouse building placement</p>
<b>Building length</b>	Maximum 180 feet.	
<b>Side Yard</b>	<b>Single family:</b> Minimum 5-foot side yard setback with a total of 15 feet on both sides; a total of 10 feet on both sides where garage access is from a rear alley. <b>Townhouses:</b> No side yard between units. Minimum 15-foot setback from single family lot and 15 foot spacing between groups of buildings.	
<b>Rear Yard</b>	Minimum 25-foot rear yard setback for principal buildings.	
<b>Building Height</b>	Minimum 2 stories. Maximum 3 stories – not including ½ stories. Maximum 35-foot building height.	
<b>Accessory Buildings</b>	Detached garages and other accessory buildings shall be located in the rear yard only and shall be setback a minimum of 3 feet from the rear and side lot lines. Attached garages shall be permitted; provided the garage is setback at least 5 feet behind the front building line of the living portion of the dwelling and the garage wall facing the street is less than 50% of the total length of the street-facing building façade. Accessory buildings shall be subject to the regulations of section 11.04; except accessory buildings may be up to 2 stories, and 20 feet in height and may include an accessory apartment in the second floor.	
<b>Parking Lot Location</b>	On-street parking shall be permitted and may be credited towards meeting off-street parking requirements. Parking shall be in the side or rear yard. For single family residential, parking shall be permitted in a front yard driveway; provided the garage does not project into the front yard.	

Genoa Town Center Overlay District

9-9

form-based code for a historic district.

Because building form and streetscape are interrelated, form-based codes include requirements for the streetscape, such as on-street parking, sidewalk width, and street trees.

Form-based codes also include many of the other regulations of conventional zoning ordinances such as definitions, administrative procedures, zoning board of appeals, nonconforming, etc.

**HOW APPROVALS ARE PROCESSED**

Because the regulating plan sets forth detailed and predictable building form requirements, approvals that are in accordance with the regulating plan can be approved administratively. This is possible because the unpredictability and greater discretion typically involved with conventional zoning does not exist with form-based codes. The idea is that if a developer is willing to follow all of the detailed requirements of the regulating plan and the form-based code, there should be little, if any, room for discretion, and the approval should be handled administratively. However, if the developer wants to deviate, then approval is required before the planning commission. Essentially, form-based codes make it easy to do the right thing, and harder to deviate from the code and regulating plan.

Because the regulating plan and form-based code are so detailed, the code must also anticipate situations that don't fit requirements or where unique development forms are proposed. Typically, a form-based code can allow for three levels of departure. Administrative departures would be minor in nature and can be approved as part of the administrative approval process. The authority for administrative departures needs to be specifically spelled out in the code, such as allowing the planning director to substitute landscaping in place of a screening wall. Major departures that deviate from the regulating plan would require approval by the planning commission, such as allowing a front façade that does not meet the building design requirements. This could be evaluated by the planning commission based upon a set of standards that relate to the regulatory intent. A third level of deviation should also be built into the code that requires a variance from the zoning board of appeals, such as departures from the build-to line or exceeding height

limits. The variances would have to be reviewed based upon the standard tests of practical difficulty.

**PROCESS IN DEVELOPING A FORM-BASED CODE**

When embarking on a significant change in how a community regulates development, the first step is to have a commitment to creating better places. This should go beyond just a desire for change – the desires of the community should be articulated through the master plan or other document, such as a downtown plan, so that there is an underlying basis to move forward.

A determination needs to be made on the type of code desired and the geographic area to be covered. The form-based code could be integrated into a community-wide ordinance, or perhaps applied to a specific corridor, neighborhood, or business district.

Next, there needs to be an inventory and analysis of existing conditions to document the existing “forms” of

the community. This inventory can be fairly labor intensive and involves detailed analysis of lot widths, setbacks, building heights, etc. With a good understanding of the existing “forms” of the community, a public process should then be conducted to gain a consensus on the existing community quality that should be maintained or new ones to be achieved. This is often done through a design charrette or workshop.

From the inventory, analysis, and public process, detailed urban standards are developed for features such as streets, blocks, building placement, and land use. Building form standards will also be developed for the various building types within the community. These standards are then developed into an ordinance and applied to a regulating plan.

## APPLICATIONS OF FORM-BASED CODE

Form-based codes can be applied to a variety of geographic areas, from a specific subarea, such as a downtown, to the entire community. Form-based codes can also be used as tools to preserve the character

of an area or as mechanisms of change to transform an area.

The most common application of form-based codes has been to subareas. The codes are used in existing downtowns and historic districts in order to preserve and enhance the traditional character. They are also used to preserve the character of specific neighborhoods and insure that new infill development is compatible with existing homes. Additionally, they are being used as effective tools to transform outdated strip commercial corridors into new town centers.

While form-based codes have been applied most often to specific subareas, more communities are looking to adopt form-based codes on a community-wide basis. National experts in form-based code have recognized that a pure form-based approach is not going to be the best application in all areas of a community – there will still need to be zoning districts for industrial uses such as truck terminals, foundries, and

hazardous uses. There may also be areas within the community that are more appropriate for automobile-oriented uses such as dealerships and fast-food restaurants. For this reason, community-wide form-based codes are going to be a hybrid, with some areas regulated by form-based zoning districts and other areas by more conventional zoning districts.

## Conclusion

Form-based codes are land development regulatory tools that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of ‘place.’ The codes assert more control over a community’s form and lead to improvements in the way the community functions. For more information on form-based codes visit [www.formbasedcodes.org](http://www.formbasedcodes.org).

*By Jeffrey R. Purdy, AICP, Partner at LSL Planning, Inc.*

## SmartGrowthTactics

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**40.230.010 Commercial Districts (C-2,C-3, GC)**

A. Purpose.

1. Neighborhood Commercial (C-2) District. These commercial areas of limited size are intended to provide for the convenience shopping needs of the immediate neighborhood. This district is permitted under the neighborhood commercial and mixed use comprehensive plan designations.
2. Community Commercial (C-3) District. These commercial areas are intended to provide for the regular shopping and service needs for several adjacent neighborhoods. This district is only permitted in areas designated as community commercial or mixed use on the comprehensive plan.
3. General Commercial (GC) District. These commercial areas provide a full range of goods and services necessary to serve large areas of the county and the traveling public. This district is limited to the general commercial comprehensive plan designation.

(Amended: Ord. 2008-12-15)

B. Definitions.

For the purposes of this section, the following definitions shall apply:

1. Streets. In commercial zones, the definition of “street” shall be limited to public rights-of-way.

C. Uses.

The uses set out in Table 40.230.010-1 are examples of uses allowable in the various zone districts. The appropriate review authority is mandatory.

- “P” – Uses allowed subject to approval of applicable permits.
- “R/A” – Uses permitted upon review and approval as set forth in Section [40.520.020](#).
- “C” – Conditional uses which may be permitted subject to the approval of a conditional use permit as set forth in Section [40.520.030](#).
- “X” – Uses specifically prohibited.

Where there are special use standards or restrictions for a listed use, the applicable code section(s) in Chapter 40.260, Special Uses and Standards, or other applicable chapter is noted in the “Special Standards” column.

<b>Table 40.230.010-1. Uses</b>				
	<b>C-2</b>	<b>C-3</b>	<b>GC</b>	<b>Special Standards</b>
<p>1. Residential Uses. Residential uses are only permitted above the ground floor in commercial zones except for an accessory caretaker, security or manager, or owner residence. The residential uses must be constructed following or in conjunction with the commercial aspects of the proposal. For the purposes of subsection (1)(a) of this table, “commercial uses” are those uses listed in subsections (2), (3), (4), (7), (8), (9), (11), (12), (14), (15) and (18) of this table.</p>				
a. Residential (integrated multifamily/commercial or mixed use structure.)	P	P	P	40.260.150
b. Existing residences without any increase in density	P	P	P	

**CLARK COUNTY ZONING USE TABLE**

c. Adult family homes (in existing single-family dwellings or duplexes only)	P	P	P	40.260.190
d. Home business – Type I	P	X	X	40.260.100
e. Home business – Type II	P	X	X	40.260.100
f. Bed and breakfast establishments	P	P	P	40.260.050
g. Temporary dwellings	P	X	X	40.260.210
h. One (1) single-family residence for an accessory caretaker, security or manager, or owner residence in conjunction with a use permitted outright or by conditional use	P	P	P	
i. Assisted living facilities	P	P	P	40.260.190
2. Retail Sales – Food.				
a. Markets greater than 25,001 square feet gross floor area	X	P	P	
b. Markets less than or equal to 25,000 square feet of gross floor area	P	P	P	
c. Bakery – primarily retail outlet (greater than 10,001 square feet of gross floor area)	X	P	P	
d. Bakery – primarily retail outlet (less than or equal to 10,000 square feet of gross floor area)	P	P	P	
3. Retail Sales – General.				
a. General retailer (greater than 100,001 square feet gross floor area)	X	P	P	
b. General retailer (25,001 – 100,000 square feet gross floor area)	X	P	P	
c. General retailer (less than or equal to 25,000 square feet gross floor area)	P	P	P	
d. Single purpose/specialty retailers (greater than 10,001 square feet gross floor area)	X	P	P	
e. Single purpose/specialty retailers (less than or equal to 10,000 square feet gross floor area)	P	P	P	
f. Yard and garden supplies, including nurseries	P	P	P	
4. Retail Sales – Restaurants, Drinking Places.				
a. Restaurants, with associated drinking places, alcoholic beverages	P	P	P	
b. Drinking places, alcoholic beverages (with or without entertainment)	C	P	P	
5. Retail Sales and Services – Automotive and Related.				
a. Motor vehicle dealers, new and used, including auto, truck trailer, boat, recreational vehicles and equipment	X	P	P	

CLARK COUNTY ZONING USE TABLE

b. Quick vehicle servicing	X	P	P	
c. Filling station	P	P	P	
d. Motorcycles	X	P	P	
e. Manufactured home sales	X	X	P	
f. Car washes	X	P	P	
g. Vehicle rental or repair including auto, truck trailer, boat, and recreational vehicles				
(1) Located entirely within an enclosed building	X	P	P	
(2) Including outside storage or repair	X	C	P	
h. Commercial off-street parking facilities	X	P	P	
i. Vehicle towing and storage services	X	X	P	
j. Transportation terminals				
(1) People	P	P	P	
k. Electric vehicle infrastructure	P	P	P	40.260.075
6. Retail Sales – Building Material and Farm Equipment.				
a. Lumber and other building materials stores and yards, with only incidental cutting and planing of products sold	X	C	P	
b. Heating and plumbing equipment, including incidental fabrication (operated entirely within an enclosed building)	X	P	P	
c. Hardware, home repair and supply stores (greater than 100,001 square feet gross floor area)	X	C	P	
d. Hardware, home repair and supply stores (25,001 to 100,000 square feet gross floor area)	X	P	P	
e. Hardware, home repair and supply stores (less than or equal to 25,000 square feet gross floor area)	P	P	P	
f. Farm equipment and implement dealer	X	X	P	
g. Hay, grain, and feed stores	X	P	P	
7. Retail Sales – Products (Retailers of products created or assembled on-site within an entirely enclosed building.)				
a. Uses greater than 25,001 square feet gross floor area	X	C	P	
b. Uses between 5,001 and 25,000 square feet gross floor area	X	P	P	
c. Uses less than or equal to 5,000 square feet gross floor area	P	P	P	
8. Services – Personal.				

TABLE 9 - USES ALLOWED BY ZONE

Land Use	Permit Requirement by Zoning District																Specific use Regulations
	AG	C/OS	R1	R2	R3	R4	PF	O (1)	C-N	C-C	C-D	C-R	C-T	C-S	M	BP	

**AGRICULTURE**

Crop production and grazing	A	A	A				A										D	D	
Greenhouse, commercial	PC	PC																	
Livestock feed lot	PC	PC																	

**INDUSTRY, MANUFACTURING & PROCESSING, WHOLESALING**

Bakery, wholesale																	A	A	PC
Furniture and fixtures manufacturing, cabinet shop																	D	A	
Industrial research and development																	PC	D	D
Laboratory - Medical, analytical, research, testing								PC				A					A	A	A
Laundry, dry cleaning plant																	A	A	
Manufacturing - Heavy																		PC	PC
Manufacturing - Light																	D	A	A
Petroleum product storage and distribution																		D	
Photo and film processing lab																	A	A	
Printing and publishing																	A	A	A
Recycling facilities - Collection and processing facility																		D	
Recycling facilities - Scrap and dismantling yard																		D	
Recycling facilities - Small collection facility										D		D					D	A	
Storage - Personal storage facility																	A	A	
Storage yard																	D	A	
Warehousing, indoor storage																	A	A	PC
Wholesaling and distribution																	A	A	PC

**LODGING**

Bed and breakfast inn	D				PC	PC					A	A	A						
Homeless shelter					PC	PC	A	PC											
Hostel					PC	PC					A	A	A						
Hotel, motel											A	A	A						PC
Recreational vehicle (RV) park accessory to hotel, motel														PC					
Vacation Rental																			17.22.G

**Key:** A = Allowed D = Director's Use Permit approval required PC = Planning Commission Use Permit approval required  
A/D = Director's approval on ground floor, allowed on second floor or above

**Note:** Footnotes affecting specific land uses follow the table.

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City of San Luis Obispo  
Zoning Regulations

TABLE 9 - USES ALLOWED BY ZONE - Continued

Land Use	Permit Requirement by Zoning District														Specific use Regulations		
	AG	C/OS	R1	R2	R3	R4	PF	O (1)	C-N	C-C	C-D	C-R	C-T	C-S		M	BP
<b>RECREATION, EDUCATION, &amp; PUBLIC ASSEMBLY USES</b>																	
Bar/tavern											D	D	D	D	D	D	
Club, lodge, private meeting hall					D	D		A			D	A/D	D	D	D		
Commercial recreation facility - Indoor								PC			D	D	D	D	D(12)	PC	D
Commercial recreation facility - Outdoor								PC							PC		
Educational conferences					D	D					D	D					17.08.010.C.6
Fitness/health facility									D		A	D	D	PC	A	A	D
Golf Course								PC									
Library, museum								PC		D	D	D	D				
Library, branch facility										D	D	D	D				
Night club											D	D	D	D	D	D	
Off-site wine tasting room											A	A	A	A	A	A	
Park, playground	D	D	A	A	A	A	D	D	A			A	A				
Public assembly facility								PC			D	D	D	D	PC		
Religious facility				PC	D	D	D	D	A	D	D	D	A	D(7)	D(7)	D(7)	
School - Boarding school, elementary, middle, secondary						PC	PC										
School - College, university campus								PC									
School - College, university - Satellite classroom facility																	
School - Elementary, middle, secondary				PC	PC	D	D	PC						D			
School - Specialized education/training									PC		A/D	A/D	A		A	A	
Special event								D	D	D	D	D	D	D	D	D	17.08.010
Sports and active recreation facility								PC					PC		PC	PC	
Sports and entertainment assembly facility								PC								PC	
Studio - Art, dance, martial arts, music, etc.								D		D	A/D	A/D	A	PC	A		
Theater								PC(8)			D	D	D				D
Theater - Drive-in															PC	PC	
<b>RESIDENTIAL USES</b>																	
Boarding/rooming house, dormitory						PC	D					D	D				Chapter 17.20
Caretaker quarters	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	D
Convents and monasteries				PC	A	A							D				
Fraternity, sorority					PC	PC											
High occupancy residential use			D	D													
Home occupation	H	H	H	H	H	H		H	H	H	H	H	H	H	H	H	17.08.090
Live/work units									A	A	A	A	A	A	A	A	17.08.120
Mixed-use project									A	A	A	A	A	A	PC	PC	17.08.072
Mobile home as temporary residence at building site	A	A	A	A	A	A		A	A								
Mobile home park			A	A	A	A											
Multi-family dwellings				A	A	A		A	D				D				
Residential care facilities - 6 or fewer residents		A	A	A	A	A		A	A/D		A/D	A/D	D				
Residential care facilities - 7 or more residents		A	A	A	A	A		D			A/D	A/D	D				
Residential hospice facility				PC	PC	D	PC	PC					D				
Rest home		A	A	A	A	A		D			A/D	A/D	D				
Single-family dwellings	A	A	A(2)	A	A	A		A	D				D				
Work/live units														D	D		17.08.120

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**Note:** Footnotes affecting specific land uses follow the table.

TABLE 9 - USES ALLOWED BY ZONE - Continued

Land Use	Permit Requirement by Zoning District																Specific use Regulations
	AG	C/OS	R1	R2	R3	R4	PF	O (1)	C-N	C-C	C-D	C-R	C-T	C-S	M	BP	
Auto and vehicle sales and rental												D		A	PC		
Auto parts sales, with installation												D(5)		A	A		
Auto parts sales, without installation									A	D	A			A	A		
Bakery, retail									A	A	A	A	A	D	D		
Building and landscape materials sales, indoor										A	A	A		A	A		
Building and landscape materials sales, outdoor										D	D	A		A	A		
Construction and heavy equipment sales and rental														D	D		
Convenience store				D	D	D			A	A	A	A	A	D	D	D	17.08.095
Extended hour retail							D		D	D	D	D	D	D	D		
Farm supply and feed store												PC		A	A		
Fuel dealer (propane, etc)														D	A		
Furniture, furnishings, and appliance stores										A	A	A		A			
General retail - 2,000 sf or less									A(3)	A	A	A	A				
General retail - More than 2,000 sf, up to 15,000 sf									D(3)	D	A	A					
General retail - More than 15,000 sf, up to 45,000 sf										D	A	A	D				
General retail - More than 45,000 sf, up to 60,000 sf										D	A	A					
General retail - More than 60,000 sf, up to 140,000 sf										PC	PC	PC					
Groceries, liquor, specialty foods									A(10)	A	A	A	PC				
Mobile home, RV, and boat sales														A	PC		
Office-supporting retail, 2,000 sf or less									A	A	A	A	A			D	
Office-supporting retail, More than 2,000, up to 5,000 sf									D	D	A	A				D	
Outdoor temporary and/or seasonal sales																	17.08.020
Produce stand		D	D						A		A	A		A			
Restaurant									A	A	A	A	A	D	D		
Service station (see also "vehicle services")									D	D		D	D	A			17.08.030
Vending machine																	17.08.020
Warehouse stores - 45,000 sf or less gfa										D		D		D			
Warehouse stores - more than 45,000 sf gfa										PC		PC		PC			

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**Note:** Footnotes affecting specific land uses follow the table.

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CITY OF SAN LUIS OBISPO  
ZONING REGULATIONS

TABLE 9 - USES ALLOWED BY ZONE - Continued

Land Use	Permit Requirement by Zoning District														Specific use Regulations			
	AG	C/OS	R1	R2	R3	R4	PF	O (1)	C-N	C-C	C-D	C-R	C-T	C-S		M	BP	
<b>SERVICES - BUSINESS, FINANCIAL &amp; PROFESSIONAL</b>																		
ATMs									A	A	A	A	A	A	A	A		
Banks and financial services									A		A	A	A		D(4)	D(4)	D	
Business support services									A		A	A/D	A		A	A	A	
Medical service - Clinic, laboratory, urgent care									D		D	D	A		D(11)		D(11)	
Medical service - Doctor office									A		A/D	A/D	A		D(11)		D(11)	
Medical service - Extended care				PC	PC	D	PC	PC					D					
Medical service - Hospital							PC	PC										
Convalescent hospital							PC	PC										
Office - Accessory									A	A	A	A	A	A	A			
Office - Business and service									A		A	A/D	A				D	
Office - Government							D	PC			A	A					P	
Office - Processing									D		D	D		D(4)	D(4)	A		
Office - Production and administrative									A		A/D	A/D	A		D(4)	D(4)	A	
Office - Professional									A		A/D	A/D	A				D	
Office - Temporary									See Section 17.08.010.C									
Photographer, photographic studio											A	A/D	A	PC	A			
<b>SERVICES - GENERAL</b>																		
Catering service											D	D	A	D	A	A		
Cemetery, mausoleum, columbarium		PC	PC	PC	PC	PC	PC						PC	PC	PC	PC		
Copying and Quick Printer Service									A	A	A	A	A		A	A	A	
Day care - Day care center (child/adult)			D(9)	D(9)	D(9)	D(9)	D(9)	A	A	A	A/D	A	D(9)	D(9)	D(9)	D	17.08.100	
Day care - Family day care home (small/large)	A	A	A	A	A	A		A	A	A	A	A	A				17.08.100	
Equipment rental														A	A	D		
Food bank/package food distribution center														D	D			
Homeless shelter								PC	PC	PC	PC	PC	PC	PC	PC		17.01.110	
Maintenance service, client site services														A	A	PC		
Mortuary, funeral home							D	D				A		D				
Personal services									A	A	A	A	D	A		D		
Personal services - Restricted													D	D				
Public safety facilities							PC									PC		
Public utility facilities							PC							A	A		17.08.080	
Repair service - Equipment, large appliances, etc.														A	A	D		
Residential Support Services									A	A	A	A						
Social service organization							D	A		A	A	A				D		
Vehicle services - Repair and maintenance - Major														A	A	D		
Vehicle services - Repair and maintenance - Minor										PC		D		A	A	D		
Vehicle services - Carwash										D		D	PC	D	D			
Veterinary clinic/hospital, boarding, large animal	PC	PC												D	D			
Veterinary clinic/hospital, boarding, small animal, indoor								D	D	A	A/D	A		A				
Veterinary clinic/hospital, boarding, small animal, outdoor														D				

Key: A = Allowed D = Director's Use Permit approval required PC = Planning Commission Use Permit approval required

A/D = Director's approval on ground floor, allowed on second floor or above

Note: Footnotes affecting specific land uses follow the table.

TABLE 9 - USES ALLOWED BY ZONE - Continued

Land Use	Permit Requirement by Zoning District																Specific use Regulations	
	AG	C/OS	R1	R2	R3	R4	PF	O (1)	C-N	C-C	C-D	C-R	C-T	C-S	M	BP		
Transportation & Communications																		
Airport							PC									PC	PC	D
Ambulance, taxi, and/or limousine dispatch facility																A	D	D
Antennas and telecommunications facilities	D	D					D	D		D	D	D	D	D	D	D	D	17.16.120
Media Production - Broadcast studio								A			A/D	A			A	A	A	
Media Production - Backlots/outdoor facilities and soundstages															D	D	D	
Heliport							PC								PC	PC		
Parking facility							PC(6)	PC(6)			PC(6)	D(6)			D(6)	D(6)		
Parking facility - Multi-level							PC(6)	PC(6)			PC(6)	PC(6)			PC(6)	PC(6)		
Parking facility - Temporary							PC	D	D	D	D	D	D	D	D	D	17.08.010	
Railroad facilities															D	A		
Transit station or terminal							PC				PC	PC			D	A		
Transit stop								A	A	A	A	A	A	A	A	A		
Truck or freight terminal															A	A	D	
Water and wastewater treatment plants and services							PC										PC	

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**Note:** Footnotes affecting specific land uses follow the table.

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**Notes to Table 9:**

1. **O zone - All uses.** A Use Permit is required for the conversion of residential structures to non-residential uses. In order to approve a Use Permit, the Director shall first find that:
  - a. The location, orientation, height, and mass of new structures will not significantly affect privacy in nearby residential areas; and
  - b. The project location or access arrangements will not significantly direct traffic to local streets in nearby residential areas; and
  - c. The project includes landscaping and yards that adequately separate parking and pedestrian circulation areas from sites in nearby residential areas.
2. **R-1 zone - Multiple dwellings.** Except for condominiums, the construction of more than one dwelling on a parcel in the R-1 zone requires Administrative Use Permit approval. R-1 density standards apply.
3. **C-N zone - Limitations on floor area.** A general retail use in the C-N zone shall not exceed a gross floor area of 2,000 square feet for each establishment, or a combined floor area of all general retail establishments within a shopping center of 25 percent of the total floor area in a shopping center with a gross floor area of 15,000 square feet or more; and shall not exceed 50 percent of the total floor area in a shopping center with a gross floor area of less than 15,000 square feet. The Administrative Use Permit may provide for exceptions to the floor area limitations above. For general retail uses with a floor area greater than 2,000 square feet on a parcel not located within a shopping center, an Administrative Use Permit shall be required to insure consistency with policies of the General Plan Land Use Element and compatibility with surrounding uses.
4. **C-S and M zones - Required findings for offices.** The approval of an office facility in the C-S or M zone shall require that the review authority first find that:
  - a. The project will be compatible with existing and allowed land uses in the area;
  - b. The project location or access arrangements will not significantly direct traffic to use local or collector streets in residential zones;
  - c. The project will provide adequate mitigation to address potential impacts related to noise, light and glare, and loss of privacy, among others, imposed by commercial activities on nearby residential areas, by using methods such as setbacks, landscaping, berming and fencing;
  - d. The project will not preclude industrial or service commercial uses in areas especially suited for these uses when compared with offices; and
  - e. The project will not create a shortage of C-S- or M-zoned land available for service commercial or industrial development.
5. **C-R zone - Auto sound system installation.** Auto sound installation services may be approved only as an accessory use to the retail sales of auto sound systems on the same site. Use Permit review shall consider parking space displacement, noise from the operation, and the appearance and visibility of the installation area.
6. **Parking as a principal use.** Use Permit approval may include deviations to otherwise applicable setback requirements and building height limits. A multi-level

parking facility shall require the approval of a Use Permit by the Planning Commission.

**7. Religious facilities.**

**a. C-S zone requirements.** Use Permit review shall consider that the C-S zone is primarily intended to accommodate uses not generally suited to other commercial zones because of noise, truck traffic, visual impacts and similar factors. A Use Permit may be approved only when the religious facility will not likely cause unreasonable compatibility problems with existing or likely future service commercial uses in the vicinity. Use Permit conditions may include measures to mitigate incompatibility.

**b. C-T and M zone requirements.** A religious facility use may be allowed only inside an existing building.

**8. PF zone - Theaters.** Only non-profit theaters are permitted.

**9. Day care centers.** Allowed by right where accessory to a church or school, or where an employer provides on-site child care to 14 or fewer children for the exclusive benefit of employees, providing the primary use meets City parking standards.

**10. Groceries, Liquor, Specialty Foods in the CN Zone.** In the C-N zone, grocery, liquor and specialty food stores under 3,000 square feet are allowed. Such uses with a gross floor area between 3,000 and 5,000 square feet are allowed with the approval of an Administrative Use Permit. Stores between 5,000 and 10,000 square feet may be approved by Planning Commission Use Permit. In order for a use permit to be approved by the Hearing Officer or by the Planning Commission, the deciding body must find that the proposed use is compatible with surrounding uses and the surrounding neighborhood, and that the use is consistent with the purpose and intent of the Neighborhood Commercial designation as discussed in the General Plan.

**11.** In order to approve a Medical Service use in the C-S or BP zones, the Hearing Officer must make the following findings:

- a) The proposed medical service is compatible with surrounding land uses.
- b) The proposed medical service is located along a street designated as an arterial or commercial collector in the Circulation Element and has convenient access to public transportation.
- c) The proposed medical service will not significantly increase traffic or create parking impacts in residential neighborhoods.
- d) The proposed medical service is consistent with the Airport Land Use Plan.
- e) The project will not preclude service commercial uses in areas especially suited for these uses when compared with medical services.
- f) The project site can accommodate the parking requirements of the proposed medical service and will not result in other lease spaces being under-utilized because of a lack of available parking.

**12. C-S zone - Required findings for Indoor Commercial Recreational Facilities.** Commercial indoor recreational uses in the C-S zone shall not include less than 10,000 square feet gross floor area per establishment. The approval of an indoor

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commercial recreational facility in the C-S zone shall require that the review authority first find that:

- a) The proposed use will serve the community, in whole or in significant part, and the nature of the use requires a larger size in order to function;
- b) The project will be compatible with existing and allowed land uses in the area;
- c) The project location or access arrangements will not significantly direct traffic to use local or collector streets in residential zones;
- d) The project will not preclude industrial or service commercial uses in areas especially suited for these uses when compared with recreational facilities; and
- e) The project will not create a shortage of C-S -zoned land available for service commercial development.

questions arise in the context of an appeal from a decision of the Planning Director, they shall be handled as provided in Section 7.16, Administrative Appeals.

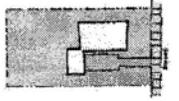
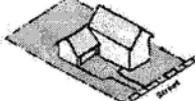
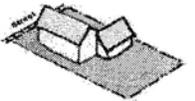
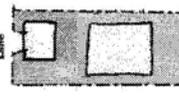
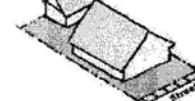
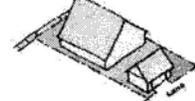
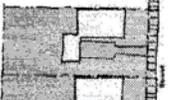
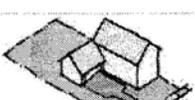
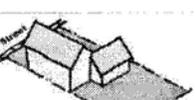
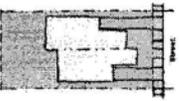
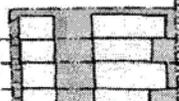
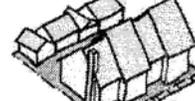
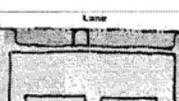
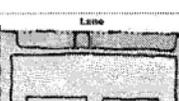
- B. An application for a Zoning Map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Planning Director. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.
- C. Where uncertainty exists as to the boundaries of any district shown on the Zoning Map, the following rules shall apply:
  1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams or railroads (main tracks) shall be construed to follow such center lines;
  2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  3. Boundaries indicated as approximately following municipal limits shall be construed as following such municipal limits;
  4. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line, boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;
  5. Where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the Zoning Map scale;
  6. Where a district boundary divides a lot or where distances are not specifically indicated on the Zoning Map, the boundary shall be determined by measurement, using the scale of the Zoning Map; and
  7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered above, the property shall be considered as classified AR, agricultural residential temporarily and subject to Section 7.4, Rezoning.

## **Sec. 2.5. Permitted land use.**

### **2.5.1 Housing types**

#### Definitions

The following permitted housing types are established to provide a common terminology for housing in the Town. All drawings are for illustrative purposes only and do not reflect ownership arrangements such as in the case of condominiums. Additional accessory housing types may also be allowed in accordance with Section 3.7.

<p><b>Single-family detached</b> A detached dwelling unit located on a single lot with private yards on all 4 sides.</p>			
<p><b>Alley-loaded house</b> A detached dwelling unit located on a single lot with private yards on all 4 sides; however, the house is set closer to the street than a single-family detached house and access is from the alley</p>			
<p><b>Zero lot line house</b> A detached dwelling unit located on a single lot with private yards on 3 sides. The unit has a single side yard on one side comprising the equivalent of 2 side yards of a single-family detached house.</p>			
<p><b>Two-family house</b> Two attached dwelling units in a single structure on a single lot (often called a duplex). The 2 units can be located on separate floors or side-by-side.</p>			
<p><b>Townhouse</b> Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically.</p>			
<p><b>Multifamily</b> Three or more attached dwelling units in a single structure on a single lot. A multifamily dwelling can vary in height from 2 to 3 stories, individual units can be mixed vertically.</p>			
<p><b>Upper-story residential</b> A dwelling unit located on a floor above a nonresidential use or in the rear half of the first floor, preserving the front half for nonresidential uses.</p>			

**2.5.2 Principal use table**

A. Permitted

A "P" indicates that a use is allowed yet subject to compatibility with surrounding land uses and supplementary zoning regulations and standards. Such uses are also subject to all other applicable regulations of this Land Development Code (LDC).

B. Conditional

A "C" indicates that a use is allowed only if approved by a conditional use permit by the Town Board in accordance with the procedures of Section 7.8.

C. Uses not allowed

A blank cell indicates that a use is not allowed.

D. Specific use standards

The final column titled "Specific Use Standards" contains a cross-reference to standards that apply to specific uses in Article 3. Where no cross-reference is shown, no additional use standard shall apply.

E. Uses not listed

The Planning Director shall use the criteria in Section 3.1.6 to determine how an unlisted use should be treated.

**Principal Uses by Zoning District**

<i>Group/Specific Uses</i>	<i>AR</i>	<i>AFT</i>	<i>ER</i>	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>	<i>MU</i>	<i>TC</i>	<i>CB</i>	<i>LI</i>	<i>HR</i>	<i>CP</i>	<i>Specific Use Standards</i>
<b>Residential Uses</b>													
Single-family detached	P	P	P	P	P	P	P						3.3.1
Alley-loaded house				P	P	P	P						3.3.3
Zero lot line house					P	P	P						3.3.4
Two-family house (duplex)					P	P	P						3.3.2
Townhouse					P	P	P				P		3.3.5
Multifamily						C					C		3.3.6
Upper-story residential		P					P	P	P	P	P		3.3.7
Manufactured home													3.3.8
Manufactured home park				C	C								3.3.9
Group home (8 or more)		C		C	C	P	P	C	P				3.3.10
Nursing home or assisted living center		C				P	C	P	P	P			3.3.11
<b>Public and Civic Uses (Section 3.1.3)</b>													
Airport, heliport	C									P		P	
Child care center (6+)						C	C	C	P			P	3.4.1
Civic club							P	P	P	P	P	P	
Hospital							C	C	P	P		C	
Museum, library		C				C	P	P	P	P	P	P	
Park, open area*	P	P	P	P	P	P	P	P	P	P	P	P	
Place of worship	P		P	P	P	P	P	P	P	P	C	P	
Public facility	C	C	C					P	P	P	C	P	
School (public or private)		C						P	P			P	3.4.2
Technical, trade, business school							P	P	P	P		P	
Utility, minor*	P	P	P	P	P	P	P	P	P	P	P	P	3.1.3
Utility, major*	C	C											

P = Permitted

C = Conditional Use (Section 7.8)

\* = Group of Uses (Article 3)

Principal Uses by Zoning District (Cont'd)

<i>Group/Specific Uses</i>	<i>AR</i>	<i>AFT</i>	<i>ER</i>	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>	<i>MU</i>	<i>TC</i>	<i>CB</i>	<i>LI</i>	<i>HR</i>	<i>CP</i>	<i>Specific Use Standards</i>
<b>Commercial Uses (3.1.4)</b>													
Agriculture, general*													3.5.1
Agriculture, limited*		P											
Amusement center, indoor								P	P	P	P		
Bed and breakfast	C	P	C	C	P	P	P	P	P		P		3.5.2
Brewpub								P	P	P	P		3.5.3
Club, private	C		C			C	P	P	P				
Distillery								C	P	P			3.5.4
Funeral home									P	P			
Gas station with convenience retail								P	P	P	P		3.5.5
Hotel, motel								P	P	P	P		
Indoor recreation*							C	P	P	P			
Kennels	C	C											3.5.6
Lumberyard, wholesale									C	P			
Microbrewery								C	P	P	P		3.5.7
Newspaper publisher							P	P	P	P			
Office, general*						C	P	P	P	P			
Office, medical*							P	P	P	P			
Outdoor recreation*	C	C	C					C	C	P			
Outdoor storage, general										P			3.5.8
Radio or television studio							P	P	P	P			
Recreational club or lodge, private	C		C					C	P				3.5.9
Restaurant		C				C	P	P	P	P	P		
Restaurant, drive through										P			
Retail, general*							C	P	P			C	
Retail, neighborhood*					C	C	P	P	P			C	
Self-storage facility									C	P			

P = Permitted

C = Conditional Use (Section 7.8)

\* = Group of Uses (Article 3)

Principal Uses by Zoning District (Cont'd)

<i>Group/Specific Uses</i>	<i>AR</i>	<i>AFT</i>	<i>ER</i>	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>	<i>MU</i>	<i>TC</i>	<i>CB</i>	<i>LI</i>	<i>HR</i>	<i>CP</i>	<i>Specific Use Standards</i>
<b>Commercial Uses (3.1.4) (cont'd)</b>													
Service, general*									P	P			
Service, neighborhood*						C	P	P	P		P		
Sexually oriented business										C			
Tasting room		P				C	P	P	P	P	P		
Tattoo parlor								P	P	P			
Vehicle sales*									P	P			
Vehicle service, heavy*		C							C	P			
Vehicle service, passenger		C						C	P	P			
Veterinarian, animal hospital	C	C						C	C	C			3.5.10
Warehouse/freight movement*									P	P			
Wholesale storage and/or sales								C	P	P			
Winery		P						C	P	P	P		3.5.11
<b>Industrial Uses (3.1.5)</b>													
Crematorium										C			
Main line railroad facilities, shed, yards								P	P				
Manufacturing, general*										P			
Manufacturing, heavy*													
Manufacturing, limited*		P							C	P			3.6.1
Processing of food and related products		C							C	C			3.6.1
Gravel pits		C											
Research & development*										C			
Waste service*										C		C	

P = Permitted

C = Conditional Use (Section 7.8)

\* = Group of Uses (Article 3)

**Sec. 3.1. Use interpretation.****3.1.1 Grouping of uses**

As set forth in the Principal Use Table (see Section 2.5.1) certain uses are grouped together based on common functional, product or physical characteristics. Characteristics include the type and amount of activity, the type of customers, how goods or services are sold or delivered, likely impact on surrounding properties and site conditions. Grouping uses provides a systematic basis for assigning uses to appropriate base zoning districts. Any use not specifically set forth in this LDC is expressly prohibited, unless determined otherwise as set forth in Section 3.1.6 below.

**3.1.2 Uses not grouped**

As set forth in the Principal Use Table (see Section 2.5.1), due to their specific nature and characteristics, certain uses have not been grouped. Individual uses may be defined in Article 10, Definitions.

**3.1.3 Public and civic use groups**

- A. Parks and open areas: Uses focusing on natural areas consisting mostly of open vegetation, passive or active outdoor recreation areas or community gardens and having few structures. Parks and open areas shall include the following: tot lot and playgrounds; mini-parks; plazas; squares; greens; neighborhood parks; botanical gardens; nature preserves and recreation trails; cemeteries or any similar use.
- B. Utility, major: A large-scale utility such as water or wastewater treatment plant, water tower, electrical generation plant, wireless telecommunications or transmission facility or any similar use.
- C. Utility, minor: All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, electric substation or any similar use. Wind power generation facilities fall within this category, however are specifically intended as a conditional use.

**3.1.4 Commercial use groups**

- A. Agriculture, general: Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, conservation and the secondary industries associated with agricultural production. Agriculture shall include the following: animal raising including horses, cows, sheep, goats, swine, poultry, rabbits and other small animals, apiculture, aquaculture, dairying, personal or commercial animal breeding and development; floriculture, pasturage, viticulture, tree or sod farm, silviculture; animal boarding, outdoor; livestock auction; plant nursery; plant nursery with landscape supply; retail or wholesale sales of agriculturally-related supplies and equipment; stable; or any similar use.
- B. Agriculture, limited: Agricultural uses and activities limited to customary local agricultural uses and activities. Limited agriculture shall include: orchard, vineyard row and field crops, packing house for fruits or vegetables, produce stand; processing of fruits or vegetables and winery.

- C. Indoor recreation: Amusement or recreational activities carried on wholly within a building, including dance hall, theater, health club and activities of a similar nature. This does not include an adult entertainment establishment or amusement center.
- D. Manufacturing, limited: A facility conducting light manufacturing operations within a fully-enclosed building, generally serviced by trucks no longer than twenty-four (24) feet in length. Limited manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items and electrical items; printing, publishing and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; photo-finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.
- E. Office, general: A facility generally focusing on business, government, professional or financial services. General office shall include the following: advertising office; bank; business management consulting; data processing; financial business such as lender, investment or brokerage house; collection agency; real estate or insurance agent; professional service such as lawyer, accountant, bookkeeper, engineer, contractor or architect; sales office, travel agency or any similar use.
- F. Office, medical: A medical facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner or similar medical provider treats or counsels patients.
- G. Outdoor, recreation: Any recreational facility where activity takes place primarily outdoors, including RV parks and campgrounds, miniature golf courses, batting cages, swimming pool, driving range or a similar facility.
- H. Retail, general: A facility involved in the wholesale or retail sale, lease or rental of new or used products to through traffic as well as the surrounding neighborhood. General retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; printed materials; sporting goods or any similar use. The retail sale of automobile parts shall be considered retail general provided no on-site automobile service or repair is provided. This definition does not include any adult entertainment establishment.
- I. Retail, neighborhood: A facility involved in the sale, lease or rental of new or used products primarily to local traffic in the surrounding neighborhood. Neighborhood retail shall include the selling, leasing or renting of the following goods: books; health and beauty products; photo finishing; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; stationery; tobacco; videos or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections and similar products whose preparation does not require installation of an exhaust hood.
- J. Service, general: A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: animal grooming; dance, martial arts, photographic, music

studio or classroom; photocopy, blueprint, quick-sign service; tattoo parlor; security service; catering service or any similar use. General services shall also include the following repair services: bicycles; mopeds; canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult entertainment establishment.

- K. Service, neighborhood: A facility involved in providing limited personal services to local traffic in the surrounding neighborhood. Neighborhood services shall include the following: personal care services such as hair, nail, tanning, massage therapy; or any similar use.
- L. Vehicle sales: A facility involved in providing direct sales, renting or leasing of motor vehicles, light and medium trucks, tractor trailers, recreational vehicles, earthmoving equipment; construction equipment; farming equipment; and other consumer motor vehicles such as motorcycles and boats or any similar use.
- M. Vehicle service, passenger: A facility involved in providing service to passenger vehicles and other small consumer vehicles. Vehicle service may include the following: alignment shop; quick lubrication facilities; brake service, battery sales and installation; outdoor car wash; auto detailing, tire sales and mounting; or any similar use.
- N. Vehicle service, heavy: A facility involved in providing repair services or auto body work to tractor trailers, recreational vehicles, earthmoving equipment; construction equipment; farming equipment; and other consumer motor vehicles such as boats or any similar use.
- O. Warehouse and freight movement: A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

### **3.1.5 Industrial use groups**

- A. Manufacturing, general: A facility conducting manufacturing with some operations conducted outside. General manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items and electrical items, printing, publishing and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; laundry or dry cleaning plant; photo-finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.
- B. Manufacturing, heavy: A facility conducting heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy

factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating and storage; livestock or poultry slaughtering; citrus concentrate plant; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

- C. Research and development: A facility focused primarily on the research and development of new products. Research and development shall include: laboratories, offices and other facilities used for research and development by or for any individual, organization or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.
- D. Waste service: A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; oil and gas facilities or any similar use.

### **3.1.6 Uses not specifically listed**

- A. Any use not specifically listed in this LDC is expressly prohibited, unless the Planning Director determines in accordance with Section 7.12, Written interpretation, that the use is similar to a permitted individual use or permitted group of uses as listed in this LDC. Where such similar permitted individual use or permitted group of uses is subject to a use standard contained in this Article or conditional use or conditional use review, the proposed use shall also be subject to such standard or approval.
- B. Where a use not listed is found by the Planning Director not to be similar to any other permitted individual use or permitted group of uses, the use shall be permitted only following a text amendment in accordance with Section 7.3. The decision of the Planning Director may be appealed to the Board of Adjustment in accordance with Section 7.16, Administrative appeals.
- C. When considering the appropriate districts for a use not listed in the Principal Use Table, the district intent statements (see Section 2.2) shall be taken into consideration.
- D. Determination of an appropriate group of uses for a proposed use not currently listed shall be made by applying the following criteria.

1. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category;
2. The relative amount of site area or floor space and equipment devoted to the activity;
3. Relative amounts of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Types of vehicles used and their parking requirements;
9. The relative number of vehicle trips generated;
10. Signs;
11. How the use is advertised;
12. The likely impact on surrounding properties; and
13. Whether the activity is likely to be found independent of the other activities on the site.

### **3.1.7 Developments with multiple principal uses**

- A. Except as set forth in Section 3.2, Complexes, no more than one (1) principal building or use may be erected on a single lot of record.
- B. When all principal uses of a development fall within one (1) use category, the entire development shall be assigned to that use category.
- C. When the principal uses of a development fall within different groups of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.
- D. A development comprised of uses regulated by separate rows on the Principal Use Table shall be reviewed using the most restrictive process from among the proposed uses.

*Commentary: If a proposed development includes a gas station, library and a restaurant, including outparcels, and one (1) of those uses is permitted or has a conditional use in the district, then the entire development requires conditional use review.*

- E. Where a use requiring approval as a conditional use or a conditional use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

*Commentary: For example, where a vehicle repair shop in a CB district (subject to conditional use review) is an outparcel within a larger retail development, the conditional use shall review the*