

ARTICLE 10

SUPPLEMENTARY DEVELOPMENT REGULATIONS

SECTION 10.0100 ACCESSORY DWELLINGS

General

10.0101 Purpose

10.0102 Development Permit for an Accessory Dwelling

Approval Criteria and Standards

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General

10.0101 Purpose

The purpose of this section is to allow for establishment of an accessory dwelling unit in conjunction with a single-family detached dwelling. An accessory dwelling may be permitted as a means of providing more affordable housing opportunities for young families, empty nesters and others; encouraging additional density with minimal cost and disruption to surrounding neighborhoods; allowing individuals and smaller households to retain large houses as residences; providing convenient care for the elderly and infirm on a long-term basis; and allowing more energy-efficient use of large, older homes.

10.0102 Development Permit for an Accessory Dwelling

An application for an accessory dwelling shall be reviewed by the Manager under the Type II procedure.

Approval Criteria and Standards

10.0120 Approval Criteria

The Manager shall approve an application for not more than one accessory dwelling per existing primary single-family detached dwelling if the applicant shows compliance with the following criteria and standards:

- A. The proposed accessory dwelling is located either within or added to a single-family detached dwelling; over a garage; or over a garage which is under construction. In the latter case, the Manager shall also find that the accessory dwelling will be occupied no sooner than the primary dwelling. No separate, free-standing units shall be permitted and the accessory dwelling must at least have a common wall, floor, or ceiling with the single-family detached dwelling or garage.
- B. The exterior of the proposed accessory dwelling unit shall match the main residence in terms of finish materials, roof pitch, trim, and window proportion and orientation.
- C. The application is consistent with **Section 10.0121** of the Community Development Code.

10.0121 Standards

- A. Accessory dwellings shall be consistent with the applicable setback, height and lot coverage standards of the land use district.
- B. An accessory dwelling shall have a maximum floor area of 900 square feet.
- C. An accessory dwelling shall not result in any new door entrance on an exterior wall facing a front yard property line.
- D. One off-street parking space, in addition to that which is required by the Development Code for the primary dwelling unit, shall be provided, or as many spaces deemed necessary by the approval authority to accommodate the actual number of vehicles used by both the occupants of the primary dwelling and the accessory dwelling, whichever is greater. Parking spaces include garage, carports or other off-street areas reserved for vehicles. However, other than being located in a driveway in front of a garage or carport, parking shall not be located in a required yard or setback area.
- E. A proposed accessory dwelling need not comply with **Appendix 5.000** of the Community Development Code, except as required to serve the site of the proposed accessory dwelling.

SECTION 10.0200 RESIDENTIAL ACCESSORY STRUCTURES

General

- 10.0201 Accessory Structures
- 10.0202 Accessory Structure Setbacks
- 10.0203 General Standards

General

10.0201 Accessory Structures

A detached accessory structure may be constructed or installed when in conformance with the standards of this section. Rigid frame fabric membrane structures are accessory structures.

10.0202 Accessory Structure Setbacks

Table 10.0202 demonstrates the setbacks for accessory structures in different conditions. If not specified below, accessory structures shall be subject to standards as identified in the respective land use district where the structure is to be located, and, within **Section 7.0200**, as applicable.

Table 10.0202 Accessory Structure Setbacks

Accessory Structure Size	Condition	Setback from side lot line	Setback from rear lot line	Setback from other structures
Less than 200 sq.ft.	Height up to 10 ft. from finished floor to average roof surface	3 feet	3 feet	Setbacks between structures shall meet Building Code standards.
	Height more than 10 ft. from finished floor to average roof surface	5 feet	5 feet	Setbacks between structures shall meet Building Code standards.
Between 200 and 500 sq. ft.		5 feet	5 feet	Setbacks between structures shall meet Building Code standards.
Between 500 and 1,000 sq. ft.	LDR-5, LDR-7, Duplexes	5 feet	15 feet	Setbacks between structures shall meet Building Code standards.
	TLDR, TR, detached residence	5 feet	15 feet	Setbacks between structures shall meet Building Code standards.

Table 10.0202 Accessory Structure Setbacks

Accessory Structure Size	Condition	Setback from side lot line	Setback from rear lot line	Setback from other structures
	TLDR, TR, attached residence	5 feet	10 feet	Setbacks between structures shall meet Building Code standards.
More than 1,000 sq. ft.	Only on lots greater than one acre	Shall conform to underlying district standard		Setbacks between structures shall meet Building Code standards.

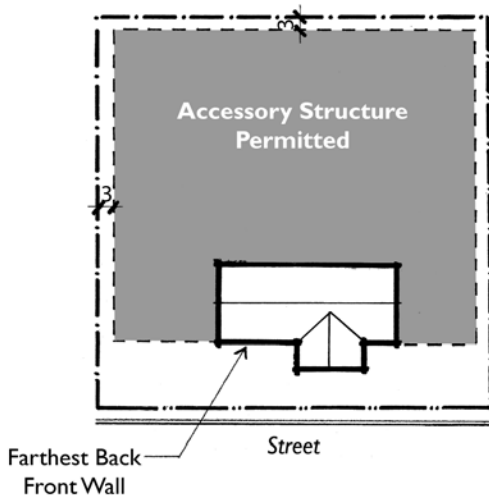
10.0203 General Standards

- A.** Accessory structures shall conform to buffering and screening, and height transition standards where applicable.
- B.** The roof of the structure shall be constructed so that water runoff from the structure does not flow onto an abutting parcel.
- C.** On all lots, the structure shall not be placed in front of the principal building. If located to the side of the principal building on an interior lot, the structure shall not be placed closer to the front lot line than the farthest back front wall of the principal building.
- D.** On corner lots, an accessory structure shall not be placed between the principal building and the street-side lot line. If located to the side or rear of the principal building, the structure shall not be placed closer to any street-side lot line than the farthest back wall of the principal building facing that street-side lot line.
- E.** For accessory structures located within 5 feet of a side or rear property line, the structure shall be moveable. For example, it may be built on skids or on a concrete slab with embedded pull loops.
- F.** More than one accessory structure may be placed or built on a site, provided:
 - 1.** The coverage standards in the underlying land use district are maintained; and
 - 2.** For lots smaller than one acre, the cumulative total of accessory structures square footage does not exceed 1,000 square feet.
- G.** An accessory structure may be located on an adjacent lot that does not contain a primary structure provided:
 - 1.** Both lots are under the exact same ownership; and
 - 2.** A deed restriction is recorded requiring the accessory structure to be removed within 30 days of transfer of ownership of either lot into separate ownership.
 - 3.** The accessory structure complies with setback requirements as applied to the lots under same ownership.
- H.** In the LDR-5, LDR-7, TR or TLDR District an attached or detached covered patio or covered deck may be placed between 3 feet to 5 feet from any interior side or rear yard setback provided that:
 - 1.** The height of the patio or deck cover in the setback area is not greater than 12 feet above grade.

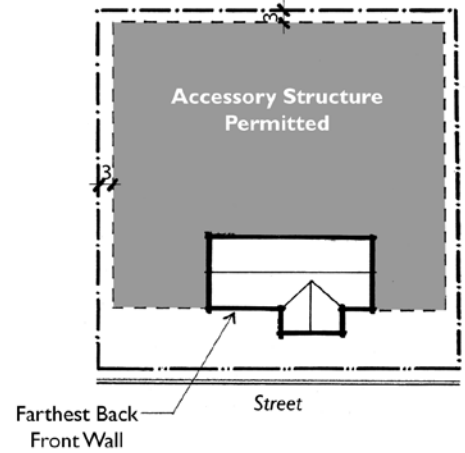
2. The roof of the structure is constructed so that water runoff from the structure does not flow onto an abutting parcel.
3. It does not encroach into the 6-foot maintenance easement area associated with zero lot line conditions.

I. Non-Conforming Accessory Structures:

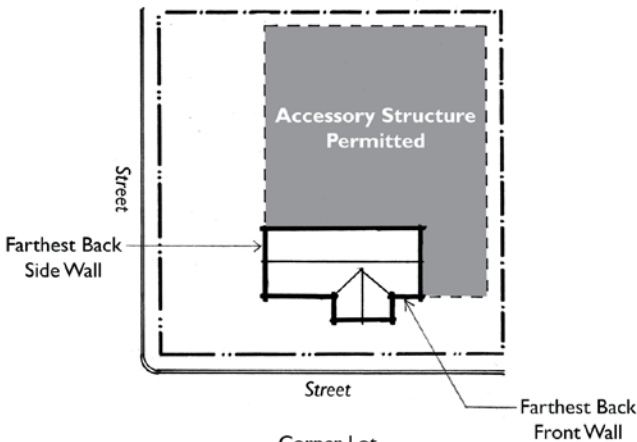
1. A new accessory structure must meet the requirements of **Section 10.0200**; it may not be placed in the same location of a non-conforming accessory structure that was removed.
2. No additions are permitted to non-conforming accessory structures, even if the addition does not increase the non-conforming situation.



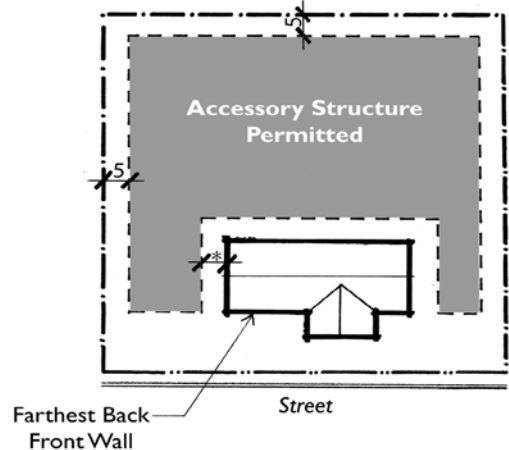
Less than 200 square feet,
* - Setback per Table 10.0202
for height up to 10 feet



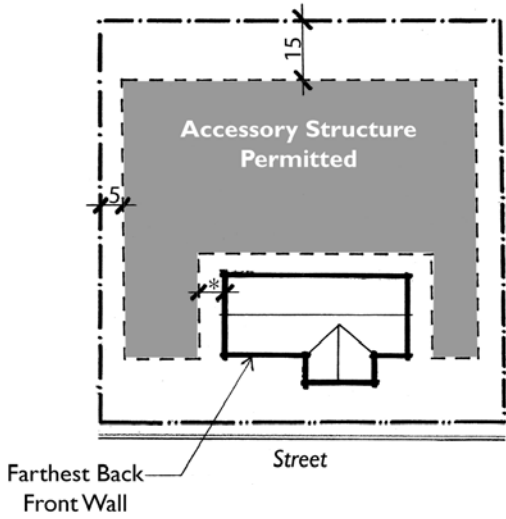
Less than 200 square feet,
* - Setback per Table 10.0202
for height more than 10 feet



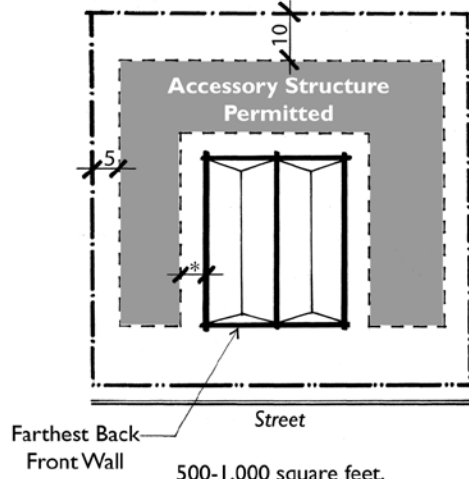
Corner Lot
* - Setback per Table 10.0202
for height up to 10 feet



200-500 square feet
* - Setback Per Table 10.0202



500-1,000 square feet,
 LDR-5, LDR-7, TLDR, TR
 Detached Residence and Duplex
 * - Setback Per Table 10.0202



500-1,000 square feet,
 TLDR, TR Attached Residence
 * - Setback Per Table 10.0202

SECTION 10.0300 ANCILLARY DWELLINGS

General

10.0301 Ancillary Dwellings

General

10.0301 Ancillary Dwellings

- A. Purpose: Ancillary dwellings provide a means of increasing residential densities in areas where single-family detached dwellings already exist. They also allow for a convenient and practical housing option for owners of existing single-family detached dwellings in neighborhoods where it is not yet economically feasible to redevelop the property to more intensive use. The size and placement of ancillary dwellings must be regulated in order to maintain compatibility with adjacent uses, and to prevent units of such size and value that they work to impede redevelopment and conversion of single-family residential properties to more intensive uses.
- B. Criteria for Ancillary Dwellings: A maximum of one ancillary dwelling per lot may be permitted when the Manager finds conformance, under the Type I Procedure, with the following criteria:
 - 1. The lot on which the ancillary dwelling will be located is in one of the following districts: DCC, DMU, DTM, DRL-1, DRL-2, or CNRM.
 - 2. The ancillary dwelling will be located on the same lot as an existing single-family detached dwelling.
 - 3. The floor area of the ancillary dwelling will not exceed 750 square feet.
 - 4. Placement of the ancillary dwelling conforms with setback standards for accessory dwellings, as contained in **Section 10.0100**, except that the ancillary dwelling need not maintain a 5 foot separation from other structures where it is proposed to be attached to the principal dwelling, e.g. by a breezeway.
 - 5. A proposed ancillary dwelling need not comply with **Appendix 5.000** - Streets, et seq. of the Community Development Code, except as required to serve the site of the proposed ancillary dwelling.

SECTION 10.0400

CONVERSIONS OF UNITS

General

10.0401 Conversion of Rental Units to Condominiums

Elderly Housing Conversion

10.0410 Application

10.0411 Conversion Criteria

General

10.0401 Conversion of Rental Units to Condominiums

- A.** A request to convert buildings containing rental units, as provided under **Section 10.0401** of the Community Development Code, shall be reviewed under the Type II procedure.
- B.** Review of Documents
The Manager shall review all documents required by ORS 94.550 to 94.785, ORS Chapter 100 and ORS Chapter 92, and the City's Community Development Code to determine compliance with all City of Gresham Development Codes and Comprehensive Plan Policies. When establishing compliance with the City of Gresham Plan Policies the following criteria must be met:
- The City's ability to provide adequate housing opportunities for all City of Gresham residents must not be depleted beyond acceptable levels. For the purposes of establishing adequate housing opportunities within the City of Gresham, a Declarant must show that his proposed conversion will not eliminate a specific sector of the Gresham Housing Stock while not narrowing the rental market opportunities beyond a 3.0% vacancy rate within the City. (Seasonal variation must be taken into consideration when establishing vacancy rates).
- C.** Criteria for Denial of Request to Convert to Unit Ownership
The City of Gresham Building Official shall not approve any request for condominium conversion that has not shown compliance with the provisions of ORS 94.550 to 94.785 and ORS Chapter 100 and the Gresham Development Code.
- D.** Final Plat Required
The submittal for unit ownership shall include a final plat meeting the applicable requirements of **Section 6.0400** of this document, and ORS Chapter 92.
- E.** Public Improvements
Public improvements and street right-of-way widths must comply with the standards of **Appendix 5.000**.
- F.** Prior to recording a declaration allowing condominium conversion, the County Recording Officer shall receive a written approval from the Manager establishing compliance of the conversion with all City of Gresham Development Codes.

Elderly Housing Conversion

10.0410 Application

An application for conversion of elderly housing to a non-elderly housing use shall be made under the Type II procedure.

10.0411 Conversion Criteria

- A. Conversion under **Section 10.0410** shall satisfy one of the following criteria:
 - 1. The facility is remodeled so that the number of units in the facility does not exceed the number of units allowed for non-elderly housing in the land use district; or
 - 2. The land use designation of the property has been changed to or already is a designation which would allow the proposed number of units; or
 - 3. The proposed conversion is to a use subject to a Special Use Review and an application is approved pursuant to **Section 8.0100**, of the Community Development Code; or
 - 4. The proposed conversion is to a permitted land use in the land use district and meets the applicable requirements of the Community Development Plan.
- B. Conversion under **Section 10.0410** shall be subject to **Article 7**, Design Review, of the Community Development Code.

SECTION 10.0500 HOME OCCUPATIONS

Home Occupations

- 10.0501 Purpose
- 10.0502 Home Occupation General Requirements
- 10.0503 Home Occupation Considerations
- 10.0504 Home Occupation Review Exception Standards
- 10.0505 Performance Standards for a Home Occupation
- 10.0506 Home Occupation Prohibited Uses
- 10.0507 Home Occupation Time Limits and Renewal
- 10.0508 Home Occupation Enforcement and Revocation
- 10.0509 Variances to Standards
- 10.0510 Unsubstantiated Complaints

Home Occupations

10.0501 Purpose

The purpose of this section is to:

- A. Protect residential areas from adverse impacts created by home based business/commercial activities.
- B. Provide the alternative to residents to use their dwelling and any associated living quarters as a place of business or commercial activity when such complies with the standards and purpose of this section.
- C. Provide a process for reviewing home occupations so as to protect the rights of neighboring residents to the peaceful enjoyment of their neighborhood and dwellings.

10.0502 Home Occupation General Requirements

- A. Home based business or commercial activities may be allowed as a home occupation subject to the requirements of this section.
- B. An application for a home occupation shall be reviewed by the Manager under the Type II procedure of **Section 11.0400**, unless the home occupation meets the review exception standards of **Section 10.0504**, in which case the application process shall be under the Type I procedure of **Section 11.0300**, and will be processed as part of the Business License application. Application for the development permit shall be made by the person desiring to conduct the use, and, the owner or authorized representative of the property on forms provided by the City.
- C. Besides meeting the requirements of this section, the business or commercial use of any home for a home occupation must be supported by an active City business license.

- D.** For the purposes of this section “home” refers to the residential location, including single family dwelling, single family dwelling unit, single family accessory dwelling unit, apartment unit, duplex, condominium unit, and associated garage, of the home occupation. All “homes” as described here may seek approval of a home occupation.

In addition, a Home Occupation must cease its operation if the “permanent residents” do not reside in the dwelling for more than 30 consecutive days.

- E.** No home occupation permit is required in order to conduct short-term personal sales (such as a garage sale or the sale of an individual personal item such as a couch or bicycle) from a residence. The maximum duration of garage/yard type sales is three consecutive days and/or 10 days total in a calendar year.

No person shall carry on a home occupation without first obtaining a permit for such use in the manner provided by this section.

- F.** An application for a home occupation subject to a Type II review procedure shall include a narrative that provides the following information:
1. Whether the applicant’s business or commercial activity will be conducted entirely at the home or only partly at home.
 2. Whether the applicant’s use would be full-time or occasional and involve employees.
 3. Whether the customers of the home occupation come to the home to do business or not.
 4. Whether the home occupation requires any physical changes to the home that would not ordinarily be there if not for the presence of the business use.
 5. Whether the home occupation activity is similar to other in-home versus out-of-home businesses.
 6. Whether the home occupation activity is similar to non-commercial activities that routinely take place at home so as to ensure minimal to no impacts on the surrounding neighborhood.
 7. A statement from the applicant that the applicant has or has not reviewed any applicable deed covenants, conditions, and restrictions that might relate to the proposed home occupation.
- G.** Application for a home occupation subject to a Type I review procedure shall include a signed statement that the applicant complies with the exception standards of **Section 10.0504**.

10.0503 Home Occupation Considerations

All home occupations shall be reviewed pursuant to the purpose and standards of this section in consideration of the application information. A home occupation proposal need not comply with **Appendix 5.000**, Public Facilities Standards, of the Community Development Code.

10.0504 Home Occupation Review Exception Standards

Home occupations which meet the following exception standards may be processed following a Type I review, must obtain a valid City business license, and must comply with the performance standards in **Subsections 10.0505(A)-(E) and (G)-(I)**:

- A.** The home occupation does not involve customers or clients coming to the residence of the applicant.
- B.** The home occupation does not include non-family members and/or non-residents as employees.
- C.** No deliveries shall be made to the residence other than by traditional small-scale means normally found in a residential area, such as the United States Postal Service, United Parcel Service, Federal Express, messenger services, etc.
- D.** Activities of or pertaining to the home occupation that occur at the home shall remain within the confines of the dwelling unit and/or garage, with the exception of those outdoor uses described in **Section 10.0504.E**.
- E.** The growing of plants, vegetables, fruits and flowers is allowed in “home” yards of home based businesses. Egg production that meets the requirements of GRC Article 7.17 and honey production that meets the requirements of GRC Article 7.18 are also allowed.

Home occupations which do not meet the above standards must follow the Type II review process as described in **Section 10.0502**.

10.0505 Performance Standards for a Home Occupation

All the following standards are established for Type II reviewed home occupations:

- A.** No signs shall be used indicating the existence of the home occupation.
- B.** There is no display or other evidence that will indicate from public rights-of-way or abutting residences that the dwelling unit is used in whole or in part for any purpose other than as a dwelling.
- C.** The home occupation shall not change the occupancy classification other than allowed in the residential Building Code.
- D.** No more than an area equivalent to 50% of the total floor area of the home may be used in connection with a home occupation or for storage purposes in connection with a home occupation. Home occupation area may be located within a portion of the dwelling building and/or an attached or detached garage. However, home occupations shall not be located in other accessory structures. Outdoor uses are allowed pursuant to **Section 10.0504.E**.
- E.** With the exception of the uses described in **10.0504.E**, there shall be no outside storage of materials or equipment associated with the home occupation. Nor shall there be any storage or use of explosive, flammable, radioactive, toxic or other hazardous materials that are not normally found in the home nor in amounts not normally associated with a residence. Specific limitations and requirements for the storage of hazardous materials in a residence are found in and regulated by the Uniform Fire Code.
- F.** No more than one employee other than permanent residents of the dwelling shall be engaged in the home occupation at the dwelling site at any one time.

- G.** No commercially-licensed vehicle in excess of 3/4 ton manufacturer's rating shall be utilized or parked at the dwelling unit by any resident of the premises in connection with the home occupation.
- H.** No deliveries shall be made to the residence other than by traditional small-scale means normally found in a residential area, such as the United States Postal Service, United Parcel Service, Federal Express, messenger services, etc. Such deliveries shall not restrict traffic circulation on the public street and sidewalks.
- I.** The generation on a regular or ongoing time period of noise, vibrations, odors, heat, glare or visual or audible electrical interference detectable beyond any property line is prohibited.
- J.** No customers shall be on the premises between 10:00 pm and 7:00 am.
- K.** Two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling. No more than two customer vehicles may visit the home occupation location at any one time and these must use the designated parking spaces onsite.
- L.** The proposed use is appropriate as a home occupation considering the purpose of this section, preceding standards, and the narrative informational items from **Subsections 10.0502(F) (1) – (6)** as provided with the application.

Upon approval of the home occupation development permit the applicant shall provide proof that he/she has obtained a current City business license.

10.0506 Home Occupation Prohibited Uses

The following business uses shall be prohibited as home occupations: vehicle repair, maintenance or dismantling activities, vehicle sales, employee/crew staging, and industrial uses (including but not limited to such activities as manufacturing, fabrication, warehousing, industrial services, and welding).

10.0507 Home Occupation Time Limits and Renewal

The approval for a Type I reviewed home occupation shall be valid as long as an active business license is maintained and renewed annually. The development permit for a Type II reviewed home occupation is valid for a period of two (2) years, but must include the annual renewal of an active business license. Renewal of the Type II permit shall then follow the Type I review process. However, any home occupation for which the City of Gresham receives more than two (2) verified complaints from property owners or any occupants of property within a radius of 300 feet of the home occupation site, or, a verified complaint is received from the applicable neighborhood association as authorized at a neighborhood association meeting, or, the home occupation is subject to City enforcement action within a calendar year, that permit must be renewed following the Type II process in the same manner as an application for a new permit. In such a case, the complaints and/or enforcement action shall be considerations for renewal.

10.0508 Home Occupation Enforcement and Revocation

The permit for a home occupation may be revoked by the Manager at any time for:

- A.** A violation of any provision of this ordinance.
- B.** A violation of any term or condition of the permit.
- C.** Failure to renew the City business license when due.

Enforcement shall follow the Abatement and Penalty provisions of **Article 2**.

10.0509 Variances to Standards

Variances to standards may be considered only for the performance standards of **Subsections 10.0505(A)-(K)** following the process and procedures of **Section 10.1500** of the City of Gresham Community Development Code.

10.0510 Unsubstantiated Complaints

City Code Enforcement staff shall have the discretion to determine the appropriate follow-up for unsubstantiated complaints. Such may include non-action or recommendations for mediation to affected parties.

SECTION 10.0600 - WIRELESS COMMUNICATION FACILITIES CO-LOCATION STANDARDS

Wireless Communication Facilities Co-Location Standards

10.0601 Co-Location Standards

10.0602 Request to Modify an Existing and Eligible Wireless Communication Facility

Co-Location Standards

10.0601 Co-Location Standards

The purpose of this section is to provide standards for the co-location of wireless communication facilities. Co-located facilities that cannot meet the standards of this section shall be reviewed through a Type II Special Use Review procedure.

- A.** Co-located wireless communication facility antennas shall meet the following standards:
 - 1.** The co-located antennas are proposed for an approved wireless communication facility or other location;
 - 2.** Additional equipment facilities may be contained within the confines of the existing approved site;
 - 3.** Antennas do not extend more than two feet from the pole, co-location facility or existing antenna array upon which it will be attached; or do not extend beyond the easement where the co-location facility is located, whichever distance is less.
- B.** Co-located antennas shall obtain a building permit.
- C.**
 - 1.** All wireless communication facility co-location proposals for personal wireless services shall be subject to the requirements and limitations of 47 U.S.C. 332(c)(7) and the rules adopted by the Federal Communications Commission to implement said section.
 - 2.** All wireless communication facility co-location proposals shall be subject to the requirements and limitations of 47 U.S.C. 1455(a) and the rules adopted by the Federal Communications Commission to implement said section.
 - 3.** In the event the applicable federal laws or rules conflict with **Section 10.0601**, the provisions of the applicable federal laws and rules shall apply.

10.0602 Request to Modify an Existing and Eligible Wireless Communication Facility

Notwithstanding **Section 8.0103**, **Section 8.0122** or **Section 10.0601**, the modification of a wireless communication facility that is an “eligible facility” shall be subject to the following:

- A.** Terms as used in **Section 10.0602** shall have the meanings provided by 47 U.S.C. 1455(a) and the rules adopted by the Federal Communications Commission to implement said section (Mandatory Approval Provisions).
- B.** The Manager shall comply with the completeness process, review process and timelines as provided by the Mandatory Approval Provisions. 47 U.S.C. 1455(a).
- C.** As required by 47 U.S.C. 1455(a), the Manager may not deny and shall approve an eligible facility request for a modification of an existing wireless tower or base station that meets the requirements of the Mandatory Approval Provisions. Notwithstanding the foregoing, the Manager may place conditions on the grant of an eligible facility request, provided that those conditions are consistent with the requirements of the Mandatory Approval Provisions.
- D.** Any 47 U.S.C. 1455(a) application that the City grants, whether by City action or by operation of FCC rule or federal law, shall be subject to the condition that the applicant comply with:
 - 1. The camouflage requirements in the City of Gresham Community Development Code or in the original approval of the existing tower or base station;
 - 2. The applicable provisions of the codes adopted and enforced pursuant to GRC Article 10.05.
 - 3. Any other generally applicable City laws reasonably related to health and safety.
- E.** Any application that is deemed granted by reason of the City’s failure to act within the applicable time periods provided in federal law:
 - 1. Shall not be deemed granted until the Applicant provides notice to the City, in writing, that the application has been deemed granted after the applicable time period has expired; and
 - 2. Shall be subject to all requirements in **Section 10.0602(D)**.

SECTION 10.0700

MINERAL AND AGGREGATE RESOURCE EXTRACTION

General

10.0701 Resource Utilization Permits for Mineral and Aggregate Resource Extraction

10.0702 Required Information for Review Purposes

Standards

10.0710 Standards for Mineral and Aggregate Resource Extraction

10.0711 Development Permit Requirements for Resource Utilization

General

10.0701 Resource Utilization Permits for Mineral and Aggregate Resource Extraction

- A. No surface mining operation for mineral or aggregate resources requiring an operating permit, as provided in ORS 517.790, or expansion of any such existing operation, may be undertaken prior to issuance of a development permit for resource utilization. For purposes of this section, expansion shall mean lateral expansion consequential to surface mining into land surfaces previously not affected by surface mining. Land surfaces affected by surface mining shall be considered to be those areas disturbed by excavation or other means during any stage of mineral or aggregate production, or the covering of any land surface by surface mining refuse.
- B. An application for a development permit for resource utilization shall be processed under a Type III procedure.

10.0702 Required Information for Review Purposes

A development permit for resource utilization shall be required for establishment or expansion of a mineral or aggregate resource extraction operation, as provided in **Section 10.0711**. In preparing an application for a permit, the following materials shall be submitted:

- A. Design Review data as specified in **Article 7**;
- B. A reclamation plan, prepared in conformance with requirements of the State Department of Geology and Mineral Industries.
- C. Narrative materials addressing the criteria of **Section 10.0711** and containing, in addition, a description of conflicting uses identified in connection with the operation and an analysis of the economic, social, environmental, and energy consequences of carrying out resource extraction as proposed.
- D. Additional data which may be required by the Manager for the purpose of evaluating the impacts of the proposed development on adjacent properties, public facilities, and existing natural features.

Standards

10.0710 Standards for Mineral and Aggregate Resource Extraction

- A. A strip of land at the existing topographical level, and not less than 15 feet in width, shall be retained around the perimeter of that portion of the site for which a reclamation plan has been prepared in conformance with requirements of the State Department of Geology and Mineral Industries. When any portion of the perimeter strip lies within 500 feet of a public street right-of-way or property which is not under the ownership of the applicant, that portion of the perimeter strip shall be landscaped in accordance with **Section 9.0110**.
- B. Principal access to the site shall be from principal arterials, major arterials, and minor arterial streets wherever possible. Direct access to the site from neighborhood collectors, local streets, and cul-de-sacs shall not be permitted.
- C. Fencing shall be placed on the site to prevent unauthorized access to open pit areas. Such fencing shall be of chain-link type, no less than 6 feet in height.
- D. Conformance with all applicable standards of the State Department of Geology and Mineral Industries for Mined Land Reclamation Permits shall be demonstrated.

10.0711 Development Permit Requirements for Resource Utilization

A development permit application for resource utilization shall be accompanied by a reclamation plan prepared in conformance with requirements of the State Department of Geology and Mineral Industries for surface mining operations. In acting to approve issuance of the development permit, the hearing body may attach conditions as necessary to mitigate adverse impacts associated with operation of the surface mine. A development permit for resource utilization shall be issued only upon finding compliance with the following criteria:

- A. The proposed development will be adequately screened from adjacent properties and rights-of-way, and will not impose adverse impacts on public facilities or sites listed in the Inventory of Significant Natural Resources and Open Spaces; or that adequate measures will be implemented to mitigate identified adverse impacts.
- B. Mineral or aggregate resources to be extracted are shown to be present in sufficient quantities and are of sufficient importance to the development of the community so as to outweigh identified adverse impacts.
- C. Appropriate provisions have been made for reclamation of the site, in conformance with requirements of the State Department of Geology and Mineral Industries.

SECTION 10.0800

(Reserved for future Code section)

Section 10.0900 RENEWABLE ENERGY

Renewable Energy

- 10.0901 Purpose
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- 10.0903 Development Permit Requirements for Renewable Energy Systems
- 10.0904 General Standards

Solar Energy Systems

- 10.0910 Solar Energy Systems
- 10.0911 Solar Energy Systems Scale
- 10.0912 Solar Energy Systems Type
- 10.0913 Solar Energy Systems Height
- 10.0914 Solar Energy Systems Setbacks and Yards

Wind Energy Systems

- 10.0920 Wind Energy Systems
- 10.0921 Wind Energy Systems Scale
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Biomass Energy Systems

- 10.0930 Biomass Energy Systems
- 10.0931 Biomass Energy Systems Scale
- 10.0932 Biomass Energy Systems Type
- 10.0933 Biomass Energy Systems Height
- 10.0934 Biomass Energy Systems Setbacks and Yards

Geothermal Energy Systems

- 10.0940 Geothermal Energy Systems
- 10.0941 Geothermal Energy Systems Scale
- 10.0942 Geothermal Energy Systems Type
- 10.0943 Geothermal Energy Systems Height
- 10.0944 Geothermal Energy Systems Setbacks and Yards

Micro-Hydro Energy Systems

- 10.0950 Micro-Hydro Energy Systems
- 10.0951 Micro-Hydro Energy Systems Scale
- 10.0952 Micro-Hydro Energy Systems Type
- 10.0953 Micro-Hydro Energy Systems Height

Renewable Energy

10.0901 Purpose

The purpose of this section is to allow renewable energy systems where appropriate in order to diversify energy sources, reduce greenhouse gas emissions, stimulate the economy with new jobs, and contribute to high-quality, energy efficient developments that create a great place to live, work, shop and play.

10.0902 Applicability

This section shall apply to all renewable energy systems throughout the city, unless superseded by the Plan District Standards. This section is not applicable to electric generating facilities or to renewable energy systems located within the publically owned or administered right of way.

10.0903 Development Permit Requirements for Renewable Energy Systems

The development permit requirements for renewable energy systems are discussed in **Article 11** with review authorities listed in **Table 11.0204** unless stated otherwise in the Code.

10.0904 General Standards

These standards apply to all renewable energy systems, unless otherwise noted. Additional standards are found in **Article 4**.

- A.** Mechanical Equipment Screening
 - 1.** All mechanical, electrical, service equipment and outdoor storage associated with renewable energy systems shall be screened so that the equipment is not visible from the streets and other street level public spaces, including alleys. Appropriate screening includes architecturally compatible, sight obscuring parapet walls, building walls, fabricated enclosures such as panels, fences or dense evergreen landscaping of sufficient height and density to conceal the equipment within five years of planting.
 - 2.** Exemptions to the renewable energy system equipment screening include:
 - a.** Roof-top solar panels parallel to pitched roof or no greater than 18” from parallel to the roof;
 - b.** Flat-roof solar energy systems;
 - c.** Integrated solar energy systems;
 - d.** Solar panels that in total are less than two feet x two feet total area;
 - e.** Ground-mounted solar trees or other art features at the discretion of the Manager;
 - f.** Wind turbines. However, any associated equipment shelter shall be screened;

- g. Heat pumps; and
- h. Electric vehicle charging stations and units.

B. External Effects

The following standards apply to all renewable energy systems. Additional standards may be found in the **Article 4** table notes.

1. Noise. All renewable energy systems shall comply with the noise standards in the Gresham Revised Code Sections 7.20.030 to 7.20.050.
2. Lighting and Glare. Lighting shall be consistent with local, state and federal law. Lighting of any associated equipment shelters shall be limited to that required for safety, security and operational purposes, and shall be full cut-off, shielded fixtures. Materials shall be designated as non-reflective or no more than 11% reflective to minimize glare.
3. Emissions. The emission of air pollutants, odorous gases and changes in temperature detectable by human senses without the aid of instruments at any point beyond the property line is prohibited.

- C. Signage.** Signage on any renewable energy system equipment shall comply with **Appendix 6.000** Sign Regulations. Signage does not include reasonable identification of the manufacturer or operator of the system and necessary safety and operations information.

10.0910 Solar Energy Systems Standards

10.0911 Solar Energy Systems Scale

There are three scales of solar energy systems with characteristics as noted below:

- A. Small Solar Energy System.** A small solar energy system has the following characteristics:

Roof-top or Flat-roof

1. Does not exceed the peak height of the roof on which it is installed; and
2. Does not increase the footprint of the structure; and
3. Is installed generally parallel to the slope of the roof or is no more than 18” from the roof; or integrated.

Integrated

4. Is integrated into the building materials and design such as the walls, windows or roofing materials; or

Ground Mounted

5. Covers a total ground area no greater than 25 square feet; and
6. Has a height no greater than 6 feet in height.

A small solar energy system also has all of the following characteristics:

7. Is not located on a building or on a site that is a historic, cultural or archeological resource; and
8. Is accessory to the primary use of the site; and
9. Is used to generate energy for use primarily on the site and/or for selling back to the grid with a system size no greater than 10 kW.

B. Medium Solar Energy System. A medium solar energy system has the following characteristics:

Roof-top or Flat-roof

1. Exceeds the peak height of the roof on which it is installed by no more than 10 feet; or
2. Increases the footprint of the structure; or
3. Is not installed generally parallel to the slope of the roof if it is roof-top equipment and is more than 18” from the roof; or

Ground Mounted

4. Covers a total ground area greater than 25 square feet but no more than 225 square feet; or
5. Exceeds six (6) feet in height but no greater than ten (10) feet in height.

A medium solar energy system also has all of the following characteristics:

6. Is not located on a building or on a site that is a historic, cultural or archeological resource; and
7. Is accessory to the primary use of the site; and
8. Is used to generate energy for use primarily on the site and/or for selling back to the grid with a system size over 10 kW and no greater than 100 kW.

C. Large Solar Energy System. A large solar energy system has the following characteristics:

Roof-top or Flat-roof

1. Is located on the roof of a building that is a historic, cultural or archeological resource; or
- Integrated

2. Is located on the roof of a building that is a historic, cultural or archeological resource; or

Ground Mounted

3. Covers a total ground area greater than 225 square feet; or
4. Exceeds 10 feet in height but no greater than 20 feet in height; or
5. Is located on a site that is a historic, cultural or archeological resource.

A large solar energy system also has all of the following characteristics:

6. Is accessory to the primary use of the site; and
7. Is used to generate energy for use primarily on the site and/or for selling back to the grid with a system size over 100 kW but no greater than 500 kW.

10.0912 Solar Energy Systems Type

There are four types of solar energy systems as follows:

- A. Roof-top Solar.** The solar energy systems, such as the solar panels, are installed or attached to the roof as independent panels on the roof of a building or on a structure such as a carport.
- B. Flat-roof Solar.** Thin film solar cells are integrated into the rolled roofing material and installed as part of the roof of the building.
- C. Integrated Solar.** The solar energy system materials are part of the building fabric or structure by design, materials and/or structure such as solar window glazing, solar walls, solar awnings or solar shingles.
- D. Ground-mounted Solar.** The solar energy system is independent of the building and is mounted on

armatures to the ground either on a ground racking system or on a pole such as a stand-alone solar tree.

10.0913 Solar Energy Systems Height

Height shall be measured from the base of the solar energy system equipment to the system's highest point.

10.0914 Solar Energy Systems Setbacks and Yards

The solar energy system shall be allowed as noted in **Article 4** in the site's underlying land use district. For those systems which are not allowed in the yards, yard is as defined in **Article 3** General Terms.

10.0920 Wind Energy Systems Standards

10.0921 Wind Energy Systems Scale

A. Small Wind Energy System. A small wind energy system has the following characteristics:

1. Has a total extended wind energy system height of no greater than ten (10) feet; and
2. Has no more than two (2) units.

A small wind energy system also has all of the following characteristics:

3. Is not located on a building or on a site that is a historic, cultural or archeological resource; and
4. Is accessory to the primary use of the site; and
5. Is used to generate energy for use primarily on the site and/or for selling back to the grid.

B. Medium Wind Energy System. A medium wind energy system has the following characteristics:

1. Has a total extended wind energy system height over ten (10) feet but no greater than forty-five (45) feet; or
2. Has three (3) but no greater than five (5) units.

A medium wind energy system also has all of the following characteristics:

3. Is not located on a building or on a site that is a historic, cultural or archeological resource; and
4. Is accessory to the primary use of the site; and
5. Is used to generate energy for use primarily on site and/or for selling back to the grid.

C. Large Wind Energy System. A large wind energy system has the following characteristics:

1. Is not located on a building or on a site that is a historic, cultural or archeological resource; or
2. Has a total extended wind energy system height of greater than forty-five (45) but no greater than one-hundred ten (110) feet; or
3. Has six (6) units but no greater than ten (10) units.

A large wind energy system also has all of the following characteristics:

4. Is accessory to the primary use purpose of the site; and
5. Is used to generate energy for use primarily on the site and/or for selling back to the grid.

10.0922 Wind Energy Systems Type

There are two types of wind energy systems as follows:

- A. Roof-top Wind. The wind energy systems, such as the blade or vertical turbines, that are attached to the roof of a building or structure.
- B. Ground-mounted Wind. The wind energy systems that are independent of the building and are mounted either into the ground typically on a pole or on a tower structure.

10.0923 Wind Energy Systems Height

Height shall be measured from the natural grade base of the wind energy system equipment to the system's highest point.

10.0924 Wind Energy Systems Setbacks and Yards

- A. The wind energy systems shall be allowed as noted in **Article 4** in the site's underlying land use district.
- B. In addition to conforming with the required setback areas of the underlying land use district, all wind energy systems that are adjacent to residential lands shall be set back from the property line a distance equal to 1.1 times the total extended wind energy system height.

10.0925 Wind Energy Systems Environmental Standards

- A. Wind energy systems shall not be allowed in the city's environmental overlays or districts, such as Habitat Conservation Area (HCA); Environmentally Sensitive/Restoration Area – Pleasant Valley (ESRA-PV); Environmentally Sensitive Resource Area – Springwater (ESRA-SW); or wetland (WQRA) areas except that a single-family residence located entirely within a HCA, ESRA-PV or ESRA-SW may have a helical vertical axis turbine roof-top wind energy system.
- B. Horizontal axis wind energy systems (with blades) shall be set back 100 feet from identified wetlands and bird habitat areas plus the 1.1 times the system height setback of **Section 10.0924(B)**.
- C. The natural grade shall not be changed to increase the elevation of the wind energy system.

10.0926 Wind Energy Systems Safety

- A. All ground-mounted wind energy system equipment shall be secured to prevent unauthorized access.
- B. Wind energy systems shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- C. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

10.0927 Wind Energy Systems Noise Impact

For wind energy systems only, the applicant shall submit a report issued by a licensed acoustical engineer stating that the wind energy system will meet the provisions of the Gresham Revised Code Section 7.020.030-7.020.050. Additionally, a second report shall be submitted to indicate that the installed wind energy system has met the provisions of the Gresham Revised Code Section 7.020.030-7.020.050 prior to final approval of the building permit.

10.0930 Biomass Energy Systems Standards

10.0931 Biomass Energy Systems Scale

- A. Small Biomass Energy System. A small biomass energy system, such as a sawdust burning furnace or a commercial size fuel cell system, has the following characteristics:
 - 1. Is internal to the primary use building; or
 - 2. Contains one (1) to five (5) mechanical equipment units no larger than 4' deep x 4' wide x 6' high each outside the building; and
 - 3. Is accessory to the primary use of the site; and
 - 4. Is used to generate energy for use primarily on the site and/or for selling back to the grid.
- B. Large Biomass Energy System. A large biomass energy system, such as a commercial forest waste biomass furnace, has the following characteristics:
 - 1. Is internal or external to the primary use building or buildings and exceeds the thresholds of a small biomass energy system; and/or
 - 2. Has outdoor biomass storage; and
 - 3. Is accessory to the primary use of the site; and
 - 4. Is used to generate energy for use primarily on the site and/or for selling back to the grid.

10.0932 Biomass Energy Systems Type

There is one type of biomass energy system as follows:

- A. Non-Hazardous Biomass. Non-hazardous biomass energy systems which generate energy from controlled combustion or some other conversion of plant materials such as wood, lawn, tree or garden residue or agricultural crops, or waste or land fill gases are permitted.

10.0933 Biomass Energy Systems Height

Height shall be measured from the base of the biomass energy system equipment to the system's highest point.

10.0934 Biomass Energy Systems Setbacks and Yards

The biomass energy systems shall be allowed as noted in **Article 4** in the site's underlying land use district.

10.0940 Geothermal Energy Systems Standards

10.0941 Geothermal Energy Systems Scale

- A. Small Geothermal Energy System. A small geothermal energy system such as a heat pump has the following characteristics:
 - 1. Is internal to the primary use building except for up to three exterior mechanical heat exchange units no larger than 4' deep x 4' wide x 6' high;
 - 2. Is accessory to the primary use of the site; and
 - 3. Is used to generate energy, heat or cooling for use primarily on the site or for selling back to the grid.

- B.** Large Geothermal Energy System. A large geothermal energy system such as an industrial geothermal eco-district has the following characteristics:
 - 1.** Is internal to the primary use building except for four to ten exterior mechanical heat exchange units;
 - 2.** Is accessory to the primary use of the site; and
 - 3.** Is used to generate energy, heat or cooling for use primarily on the site or for selling back to the grid.

10.0942 Geothermal Energy Systems Type

There is one allowed type of geothermal energy system as follows:

- A.** Closed-loop Geothermal. Closed-loop geothermal energy systems which exchange heat and cooling through contained fluid systems are permitted.

10.0943 Geothermal Energy Systems Height

Height shall be measured from the base of the geothermal energy system equipment to the system's highest point.

10.0944 Geothermal Energy Systems Setbacks and Yards

In addition to the district setback standards, small scale geothermal energy systems such as heat pumps may project 4.5 feet into the side and rear setbacks per **Section 9.0900** Projections.

10.0950 Micro-Hydro Energy Systems Standards

10.0951 Micro-Hydro Energy Systems Scale

- A.** Small Micro-Hydro Energy System. A small micro-hydro energy system such as a turbine contained within a water pipe has the following characteristics:
 - 1.** Is contained entirely within a structure or pipe;
 - 2.** Is accessory to the primary use of the site; and
 - 3.** Is used to generate energy such as electricity for use primarily on the site.

10.0952 Micro-Hydro Energy Systems Type

There is one allowed type of micro-hydro energy system as follows:

- A.** In-Pipe Micro-Hydro. In-pipe micro-hydro energy systems which generate energy through water fluid movement within a pipe structure are permitted.

10.0953 Micro-Hydro Energy Systems Height

Height shall be measured from the base of the micro-hydro energy system equipment to the system's highest point.

SECTION 10.1000

PRIVATE COMMUNICATION FACILITIES

Satellite Receive-Only Antenna

10.1001 Satellite Receive-Only Antenna General Provisions

10.1002 Satellite Receive-Only Antenna Development Requirements

Amateur Radio and Citizen Band Antenna

10.1010 Amateur Radio and Citizen Band Antenna General Provisions

10.1011 Amateur Radio and Citizen Band Antennas Development Requirements

Satellite Receive-Only Antenna

10.1001 Satellite Receive-Only Antenna General Provisions

A satellite receive-only antenna that has a diameter of 4 feet or more and is to be located in a residential district shall be permitted under the Type I procedure when found to be consistent with the siting and screening requirements of the Community Development Code **Section 10.1002(A)** through **(C)**. The Type II procedure shall apply when the applicant requests consideration under **Section 10.1002(D)**, which is an exception to the rear yard location and height provision requirements.

10.1002 Satellite Receive-Only Antenna Development Requirements

A satellite receive-only antenna in a residential district may be erected on a parcel if it meets the following requirements:

- A.** Except as provided by **subsection (D)**, the antenna shall be located in the rear yard area but not closer than 6 feet to a side or rear lot line;
- B.** The lower rim of the dish shall not be more than 4 feet above grade; and
- C.** The antenna is screened on all sides except for the face of the dish and the horizontal area needed to direct the dish to the various satellites. The application of the screening shall apply to all dishes which are exposed to dwellings on adjacent lots within 100 feet. The screening shall consist of landscaping materials which will grow to obstruct view of the dish within five years of planting. A fence can be substituted for landscaping.
- D.** Exceptions to a rear yard location and height provision: If a rear yard location or the height provision would prevent reception of a satellite signal, the dish shall be located in the least visually impacting location on the property. The determination of the least visually impacting location will be based on a case-by-case basis but generally is, in order of desirability:
 - 1.** A side yard location;
 - 2.** A front yard location; or
 - 3.** On the structure (in which case, the screening requirements will not apply).

Amateur Radio and Citizen Band Antennas

10.1010 Amateur Radio and Citizen Band Antenna General Provisions

Amateur radio and citizen band antenna support structures and amateur radio and citizen band antennas, which themselves are deemed structures under the Building Code, that are located in a residential district, shall require a development permit. All other amateur radio and citizen band antennas that are located in residential districts shall not require a development permit but shall conform to the applicable provisions of the Community Development Code.

When a development permit is required, the application shall be processed under the Type I procedure with the exception of parcels in the GBSV District which are subject to the Type II procedure. The application shall be found to be consistent with the requirements of the Community Development Standards Document **Section 10.1011(A-J)**. The Type II procedures shall also apply when the applicant requests consideration under **Section 10.1011(K)**, which is an exception to the yard setback, locational and height provision requirements.

10.1011 Amateur Radio and Citizen Band Antenna Development Requirements

Amateur radio or citizen band antennas and their support structures erected in a residential district shall meet the following requirements:

- A. The amateur radio or citizen band antenna shall not be located closer than 6 feet from a dwelling other than the dwelling on the same lot.
- B. The maximum height of an antenna and support structure shall be 100 feet except in the GBSV District, where the maximum height of the antenna and support structure shall not exceed 35 feet. The height of a crank-up tower shall be measured when fully extended.
- C. Antenna support structures shall be located outside of required rear and side yard setbacks and behind the front building line of the dwelling or other primary structure on the site.
- D. Tower-type vertical antennas and antenna support structures, extending more than 35 feet in height from mounting point shall be set back from all property lines at least a distance equal to 30 percent of their height. For purposes of this subsection, the height of an antenna support structure shall include the linear vertical distance to the highest point of any mast and/or antenna mounted on the structure, or the highest point of the support structure, whichever is greater. The setback distance shall be calculated from all property lines to the closest point of the vertical aspect of the affected antenna or support structure. Horizontal space occupied by an antenna shall not be included in the setback calculation. The wire portions of inverted-vee, dipole, sloper and similar-type antennas shall be exempt from this subsection.
- E. Guy wires and anchors shall be located outside of required front and street side yard setbacks.
- F. No part of an antenna or its support structure including parts that can be rotated, shall extend over any adjacent lot.
- G. The applicant shall submit a statement describing the nature and extent of any interference which may be associated with the radio frequency (RF) facility and describing the applicant's responsibilities under federal regulations.

- H.** The following color standards apply to ground-mounted amateur radio or citizen band antenna support structures greater than 55 feet and up to 200 feet in height:
- 1.** Metal structures shall have a galvanized finish, or be flat or matte silver, or flat or matte gray in color.
 - 2.** Wooden pole antenna support structures shall be of a natural wood color or a paint or stain approximating a natural wood color.
- I.** Ground-mounted amateur radio or citizen band antenna support structures more than 200 feet in height shall comply with locational, painting and lighting regulations of the Oregon Department of Transportation Aeronautics Section, Federal Aviation Administration, and Federal Communications Commission.
- J.** If the antenna is mounted on a dwelling or other building without an antenna support structure, then the antenna shall be at least 20 feet from all property lines. This subsection does not apply to: the wire portions of inverted-vee, dipole, sloper and similar-type antennas; antennas with a wind-loading surface area of 3 square feet or less; wire antennas less than 3 feet above the height of the structure on which mounted; or "whip" type antennas. No antenna mounted on a dwelling or other building without an antenna support structure shall exceed a height of 40 feet above the top of the structure.
- K.** Exceptions to a yard setback, locational or height provisions are allowed if the yard setback, locational or the height provision would prevent effective amateur communications or the generation, detection or processing of radio frequency energy. The antenna and/or support structure may be excepted from the yard setback, locational or height provisions provided that:
- 1.** The applicant provides documentation that the exception is needed for the operation of the amateur radio or citizen band facility, and
 - 2.** The applicant provides documentation that the request is the minimum necessary exception from the yard setback, locational or height provisions of this section, and
 - 3.** If the exception would result in any part of an antenna or support structure, including parts that can be rotated, extending over any adjacent property, then the applicant shall provide a copy of an easement from the owner of the affected property authorizing such extension.

SECTION 10.1100

SHORELINE HEIGHT STANDARDS

General

10.1101 Purpose

10.1102 Application

General

10.1101 Purpose

The purpose of the shoreline height standards is to reduce the visual impact of structures built between the south bank of the Columbia River and Marine Drive.

10.1102 Application

The following height limits shall apply to structures for which a development permit is required on land lying north of Marine Drive:

- A. New detached structures shall not exceed a height equivalent to an elevation of three feet above the elevation of that portion of the Marine Drive roadway which abuts the development site.
- B. Enlargements to existing detached dwellings and construction of detached, residential accessory structures on the same lot as an existing detached dwelling shall be permitted with a maximum height of 45 feet above grade.

SECTION 10.1200

(Reserved for future Code section)

SECTION 10.1300

TEMPORARY HEALTH HARDSHIP DWELLING

General

10.1301 Purpose

Submittal Requirements and Development Standards

10.1310 Development Permit for Temporary Health Hardship Dwelling

10.1311 Application

10.1312 Approval Criteria

10.1313 Permit Renewals

10.1314 Removal

10.1315 Guarantee of Removal of Temporary Health Hardship Dwellings

General

10.1301 Purpose

The purpose of a temporary health hardship dwelling is to allow convenient support and care for infirm relatives by allowing temporary placement of a manufactured home as an accessory to an existing single-family detached dwelling.

Submittal Requirements and Development Standards

10.1310 Development Permit for Temporary Health Hardship Dwelling

An application for a temporary accessory dwelling shall be reviewed by the Manager under the Type I procedure.

10.1311 Application

In addition to the applicable submittal requirements of **Section 11.0900** of the Gresham Development Code, an applicant for a temporary health hardship dwelling development permit shall submit:

- A. Ten copies of a proposed site plan, drawn to scale, showing all existing and proposed structure locations and sizes. Show distances to other structures and property lines. Show the location of all existing and proposed public facility connections, and existing easements.
- B. Ten copies of a narrative covering each of the appropriate approval criteria pursuant to **Section 10.1312**.
- C. Ten copies of the licensed physician letter pursuant to **Section 10.1312(B)**.

10.1312 Approval Criteria

The Manager shall approve an application for development permit if the applicant shows that either the primary dwelling or the temporary accessory dwelling will be occupied by a person with a health hardship, and that:

- A. The person with a health hardship is either one of the property owners or a relative of one of the property owners. For the purposes of this section, a relative is defined as a grandparent, parent, child, brother or sister, either by blood or legal relationship.
- B. The person with the health hardship is unable to adequately provide daily self-care needs because of a physical and/or medical impairment, based upon a statement from a licensed physician.
- C. The manufactured home to be occupied as the temporary accessory dwelling is located on the site of an existing single-family detached dwelling, or on a vacant lot abutting the site of the existing single-family detached dwelling and in the following districts: MDR-12, MDR-24, OFR, NC, RTC, SC, SC-RJ, CMF, CMU, CC, MC, CNTH, CNTM and CNRM.
- D. The application is consistent with the following:
 - 1. Temporary health hardship dwellings shall meet the standards of the LDR-5 or LDR-7 Districts.
 - 2. The temporary health hardship dwelling (if placed on the same lot as the existing single-family detached dwelling) shall be located behind the farthest back front wall of the existing primary dwelling, when located on an interior lot. When located on a corner lot, the temporary health hardship dwelling (if placed on the same lot as the existing single-family detached dwelling) shall be placed in conformance with streetside yard setback requirements on the streetside.
 - 3. A temporary health hardship dwelling shall not be required to comply with **Appendix 5.000 - Public Facilities Standards**, unless the proposed use will cause the capacity of existing facilities serving the site to be exceeded.
 - 4. No additional off-street parking spaces are required for the temporary health hardship dwelling.

10.1313 Permit Renewals

A development permit for a temporary health hardship accessory dwelling shall expire two years from the date of issuance of the permit. Permits may be renewed for two year periods by the Manager under the Type I procedures, provided the following criterion is met: A recent (within 6 months prior to the expiration date) physician's statement is provided, verifying that the situation described in **Section 10.1312(B)** still exists.

10.1314 Removal

A temporary accessory dwelling shall be removed from the site within six months of the expiration of the development permit. No one shall reside in the accessory dwelling following expiration of the permit.

10.1315 Guarantee of Removal of Temporary Health Hardship Dwellings

Prior to issuance of a building permit for the manufactured home, the applicant shall provide the City a Guarantee of Completion equal to 110% of the estimated cost of removing the manufactured home to ensure removal of the manufactured home.

SECTION 10.1400

TEMPORARY, INTERMITTENT AND INTERIM USES

General

- 10.1401 Temporary Uses
- 10.1402 Intermittent Uses
- 10.1403 Interim Uses

Permitted Uses

- 10.1420 Permitted Temporary, Intermittent and Interim Uses

Development Standards

- 10.1430 Standards and Review Processes
- 10.1431 Standards for All Temporary, Intermittent and Interim Uses
- 10.1432 Temporary Uses – Time Between Permits
- 10.1440 Additional Standards for Temporary Uses
- 10.1450 Additional Standards for Intermittent Uses
- 10.1460 Additional Standards for Interim Uses

General

This section applies to Temporary, Intermittent and Interim Uses.

10.1401 Temporary Uses

Temporary uses are characterized by their short-term or seasonal nature.

10.1402 Intermittent Uses

Intermittent uses are characterized by their short-term or seasonal nature, although they occupy a site occasionally rather than continuously.

10.1403 Interim Uses

Interim uses can be seasonal or long-term uses that can occupy the site continuously on an interim basis until the site is developed more intensely or with permanent structures/uses.

Definitions for Temporary, Intermittent and Interim Uses are found in **Article 3, Section 3.0160**.

Permitted Uses

10.1420 Permitted Temporary, Intermittent and Interim Uses

Table 10.1420 identifies where Temporary, Intermittent and Interim Uses are allowed. They are allowed in addition to the uses normally allowed in the underlying land-use district.

- P = Permitted use.
- L = Use is permitted, but is limited in the extent to which it may be permitted.
- NP = Use not permitted.

Table 10.1420: Where Uses are Permitted

	Low-density residential districts ¹	Multi-family districts ²	Commercial and mixed-use districts ³	Industrial districts (GI, HI, RTI-SW, IND-SW)	Sites of approved institutional uses ⁴
Temporary Uses:					
Agricultural Product Sales, Short Term	P	P	P	P	P
Christmas Tree Sales	P	P	P	P	P
Commercial Stands, Short Term ^{5,6}	NP	NP	P	NP	L ⁷
Film Production Studios and Trailers	P	P	P	P	P
Fireworks Sales	P	P	P	P	P
Real Estate Sales Offices	P	P	P	P	NP
Special Events	NP	NP	P	P	P
Temporary Commercial, Institutional or Industrial Building	NP	NP	P	P	P
Temporary Dwelling	P	L ⁸	NP	NP	NP
Other Temporary Uses	P	P	P	P	P
Intermittent Uses:					
Intermittent Lodging	NP	P	P	NP	P
Special Events	NP	NP	P	P	P
Farmers' Markets	NP	NP	P	P	P
Warming/cooling Shelters	NP	NP	P	P	P
Other Intermittent Uses	P	P	P	P	P
Interim Uses:					
Agricultural Product Sales, Long Term	P	P	P	P	P
Commercial Stands, Long Term ⁵	NP	NP	P	NP	L ⁷
Other Interim Uses	P	P	P	P	P

Table 10.1420 Notes:

- 1 LDR-5, LDR-7, TLDR, TR, LDR-PV, VLDR-SW, LDR-SW, THR-SW.
- 2 MDR-12, MDR-24, CMF, DRL-1, CNRM, MDR-PV, HDR-PV.
- 3 Includes districts that allow commercial that are not listed in footnote 1 or 2 and that are not listed as industrial districts in **Table 10.1420**. These are CC, CMU, DCC, DMU, DRL-2, DTM, DEM, DCL, MC, CNRM, MUE-PV, NC-PV, OFR, RTC, SC, SC-RJ, TC-PV, CNTH, CNTM, VC-SW, EC-PV, GC, NC, NC-SW.
- 4 Permitted uses are allowed on approved institutional sites even if they fall under another category in this table where the Temporary, Intermittent or Interim Use is not permitted.
- 5 Drive-through Commercial Stands (both long-term and short-term) are permitted only where drive-through Business and Retail

- Services and Trade uses are permitted.
- 6 Commercial Stands, Short Term also may be permitted as an accessory use to Christmas Tree Sales, Farmers' Markets or Special Events. When conducted as an accessory use, they are exempt from the standards specified for Commercial Stands, Short Term in Section 10.1440.
 - 7 Permitted for institutions with a minimum site size of 10 acres if consistent with commercial activity allowed as part of the Institutional Classifications in Section 3.0270. For example, "support commercial" is listed as an accessory use in Section 3.0276 Schools.
 - 8 Permitted on lots where a single-family dwelling exists.

Development Standards

10.1430 Standards and Review Processes

Table 10.1430 designates time limits and review processes for Temporary, Intermittent and Interim uses. Applications shall be reviewed as specified in **Article 11**.

- A. All Temporary, Intermittent and Interim Uses shall be required to acquire a development permit, except:
 1. Christmas Tree Sales; Commercial Stands, Short Term; and Film Production Studios and Trailers shall be required to acquire a development permit only if they:
 - a. Remain on the site more than six hours in any one day; or
 - b. More than three days in any week (Monday through Sunday).

**Table 10.1430: Permit Duration, Renewals, Review Processes
and Additional Standards**

	Maximum permit duration	Are renewals permitted? ¹	Review process	Additional standards
TEMPORARY USES				
Agricultural Product Sales, Short Term	90 days	No	Type I	Section 10.1440(B)
Christmas Tree Sales	50 days	No	Type I	Not applicable
Commercial Stands, Short Term	90 days	No	Type I	Section 10.1440(C)
Film Production Studios and Trailers	180 days	Yes	Type I	Not applicable
Fireworks Sales	20 days	No	Type I	Not applicable
Real Estate Sales Offices	1 year	Yes, until homes or lots are sold	Type I	Section 10.1440(D)
Special Events	14 days	No	Type I	Section 10.1440(E)
Temporary Commercial, Institutional or Industrial Buildings	1 year	Yes	Type I	Section 10.1440(F)
Temporary Dwellings	1 year	Yes	Type I	Section 10.1440(G)
Other Temporary Use	30 days	No	Type I	Section 10.1440(H)
INTERMITTENT USES				
Intermittent Lodging	1 year	Yes	Type I	Not applicable
Farmers' Markets	1 year	Yes	Type I	Section 10.1450(B)
Special Events	1 year	Yes	Type I	Section 10.1450(C)
Warming/cooling Shelters	1 year	Yes	Type I	Section 10.1450(D)
Other Intermittent Use	1 year	Yes	Type I	Section 10.1440(E)
INTERIM USES				
Agricultural Product Sales, Long Term	1 year	Yes ²	Type II, new or expanding site ³ Type I, replacement use on previously approved site ⁴	Section 10.1460(D)
Commercial Stands, Long Term	1 year	Yes ²	Type II, new or expanding site ³ Type I, replacement use on previously approved site ⁴	Section 10.1460(E)
Other Interim Use	1 year	Yes ²	Type II	Section 10.1460(F)

Table 10.1430 Notes:

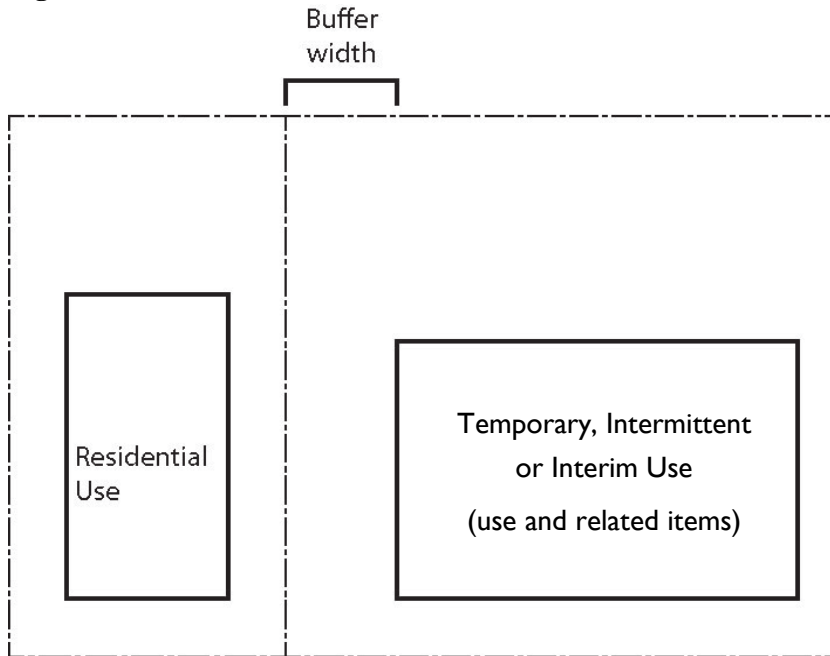
- 1 For Temporary Uses, a "No" in this column refers to whether renewals are allowed for the same use on the same site during a calendar year. Applicants may apply for the use the following year. Agricultural Products Sales, Commercial Stands or Other Temporary Uses that wish to exceed the maximum permit duration may apply for an Interim Use permit.
- 2 Interim Uses permits would renew automatically with the business license or, if no business license is required, at the one-year anniversary of when the initial Interim Use permit was issued, except when the use has been subject to a City Code Compliance enforcement action to address an uncorrected violation as provided for in Gresham Revised Code Article 7.50. Enforcement actions include but are not limited to civil penalties, citations and abatement. If an enforcement action has occurred, the use shall be reviewed at the time of renewal following the Type II process in the same manner as an application for a new permit. In such a case, the enforcement action shall be considered during the renewal application review, such as when determining conditions of approval.
- 3 The initial review for Interim Uses on a site shall be a Type II review. This would apply the first time any Agricultural Product Sales or Commercial Stands, Long Term application was filed for a site. In addition, a Type II process is required if additional uses occupy the site beyond the number originally approved, such as a site adding a third Commercial Stand on a site approved for two stands.
- 4 For these uses, a new Agricultural Product Sales use or Commercial Stand, Long Term can replace a previously approved like use under a Type I process, as long as the permit obtained through a Type II review is active at the time of the Type I permit or was active within the last 12 months prior to the Type I permit. For example, if a Commercial Stand leaves the site, it can be replaced by another Commercial Stand using a Type I process if the Type II permit is current or was active within the last 12 months. Changing from a Commercial Stand to an Agricultural Product Sales use would require a Type II process. Applications from new owners shall comply with the latest Development Code standards.

10.1431 Standards for All Temporary, Intermittent and Interim Uses

The following standards apply to all uses in this section:

- A. Uses shall meet land-use district minimum setbacks for the site perimeter.
- B. Except for Temporary Dwellings, Intermittent Lodging and Warming/cooling Shelters, if a site where a Temporary, Intermittent or Interim Use is located abuts a lot with a residential use, the Temporary, Intermittent or Interim Use shall meet the minimum buffer width required in **Section 9.0100** as shown in **Table 9.0111(B)**. The Option 2 buffer width, when available, shall satisfy this standard. Buffer trees, shrubs and screening from that table are not required. Buffer widths shall be allowed to overlap with setback requirements.

Figure 10.431(B): Buffer Width



- C.** The use shall provide adequate vision clearance as required by **Section 9.0200**. (Clear vision exceptions in land-use districts and Plan Districts still apply.)
- D.** Ingress and egress shall be safe and adequate when combined with the other uses of the property as required by **Appendix 5**.
- E.** Uses shall not create tripping hazards in pedestrian or vehicular areas with items such as cords, cables and pipes.
- F.** Signs shall comply with applicable requirements of **Appendix 6**.
- G.** Uses shall be required to post City Temporary, Intermittent or Interim Use permits; City business licenses; and Multnomah County Health Department food service licenses, where applicable, in a location visible to customers and/or from the street.
- H.** Unless otherwise specified in this section, Temporary or Intermittent Uses shall be exempt from a finding of adequate public facilities and Interim Uses shall be exempt from a finding of adequate public facilities unless it is determined that the proposed use exceeds the capacity of existing public facilities or causes unsafe conditions.
- I.** The Manager may impose conditions on any approval intended to minimize adverse impacts created by the use on surrounding property and uses.
- J.** Temporary, Intermittent and Interim Uses are exempt from land-use district density, floor-area ratio and Design District design guidelines and standards.
- K.** Uses where at least 50 percent of sales is a combination of food and beverages shall not be allowed. This does not prohibit the sale of food and beverages as described in the definition for each use.

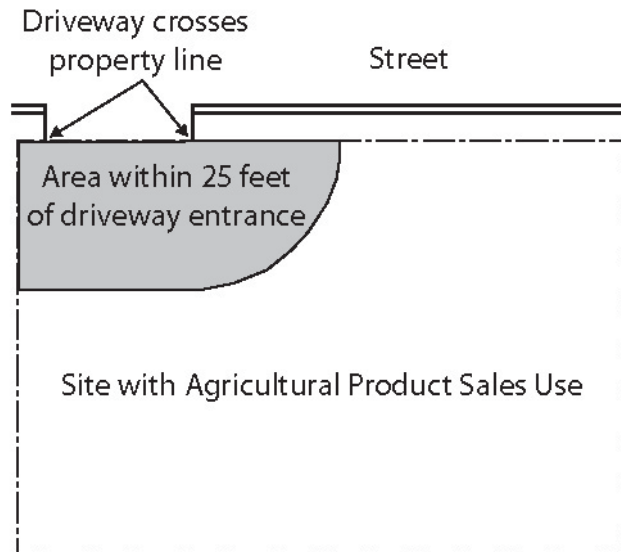
10.1432 Temporary Uses – Time Between Permits

- A. No time period is required between Temporary Use permits on sites, except:
 - 2. For Commercial Stands, Short Term and Agricultural Product Sales, Short Term, at least four calendar days shall pass between the end of one Temporary Use permit and the beginning of another at the same site; and
 - 3. For Other Temporary Uses in low-density residential and multi-family districts, at least four calendar days shall pass between the end of one Temporary Use permit and the beginning of another at the same site. This does not apply to Temporary Uses at approved institutional sites.

10.1440 Additional Standards for Temporary Uses

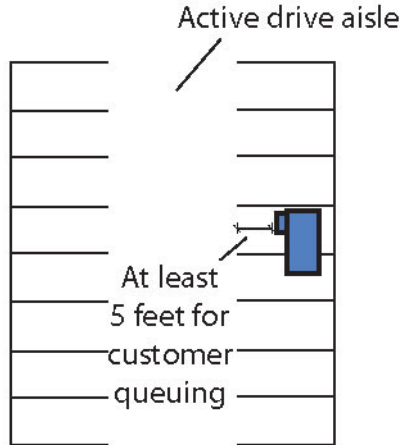
- A. Temporary Uses may occupy parking required for another use.
- B. Agricultural Product Sales, Short Term
 - 1. Tents, structures and product display or storage areas shall not be located within 25 feet of an active driveway entrance as measured in all directions from where the driveway enters the site at the edge of the street right of way, as shown in **Figure 10.1440(B)(1)**.

Figure 10.1440(B)(1): Distance from active driveway entrance



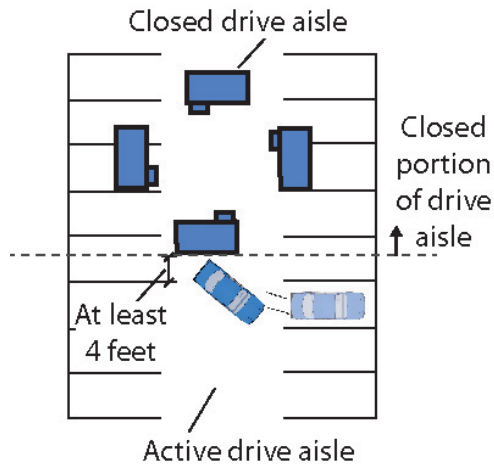
- 2. Shall be located at least 3 feet from the right of way or back of sidewalk, whichever provides the greater distance from the right of way.
- 3. Shall provide at least 5 feet between service windows or other customer service points and an active drive aisle. The distance shall be measured perpendicular to the service window/point as shown in **Figure 10.1440(B)(3)**.

Figure 10.1440(B)(3): Space between customer service point and active drive aisles



4. Shall not occupy fire lanes or drive aisles necessary for vehicular circulation or fire/emergency vehicle access as determined by the Manager. Agricultural Product Sales may occupy other drive aisles. In cases where a portion of a drive aisle is occupied, at least 4 feet of clear maneuvering space shall be provided between the closed portion of the drive aisle and the abutting active parking spaces, as shown in **Figure 10.1440(B)(4)**.

Figure 10.1440(B)(4): Space between active parking and closed parking



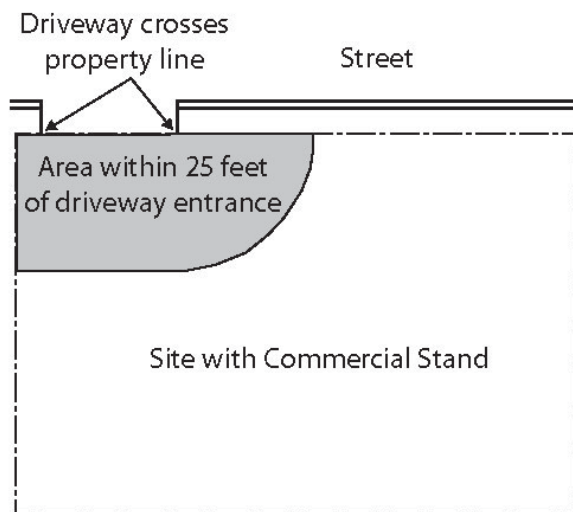
5. Shall limit the visual effect of accessory items not used by customers, including but not limited to tanks, barrels and miscellaneous items, such as by using screening or storing them in containers to substantially limit views of such items from the street. Screening could be temporary fencing or landscaping (such as landscaping in pots or planters). Storage containers could be small sheds or storage units. Screening shall:
 - a. Significantly limit views of items within 3 feet of the ground; and
 - b. Allow views through the site between 3 and 10 feet to ensure surveillance of the site remains possible for crime prevention purposes.

6. For Agricultural Product Sales uses that have food service components, the following health and sanitation standards shall apply:
 - a. Applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and grease do not enter the City’s wastewater infrastructure. Non-stormwater discharges to the City’s stormwater system are prohibited.
 - b. Uses shall ensure the availability of a restroom with hand washing facilities for employees. Uses that serve food to walk-up customers shall ensure the availability of a restroom with hand washing facilities for customers. The restrooms must be within one-quarter mile or within 5 minutes walking distance and be available during the hours of operation. Applicants shall provide the City with documentation that restrooms are available.
7. Shall not occupy pedestrian walkways or required landscape areas.
8. Drive-through Agricultural Product Sales are not allowed in low-density and multi-family residential districts as designated in **Table 10.1420** and are not allowed at institutional sites in those districts. They are allowed in commercial and industrial districts where drive-throughs for Commercial Stands are allowed. They shall meet all drive-through standards applicable to Commercial Stands.

C. Commercial Stands, Short Term

1. Shall be on a paved surface such as but not limited to concrete, asphalt, pavers and other surfaces as approved by the Manager.
2. Shall not be located within 25 feet of an active driveway entrance as measured in all directions from where the driveway enters the site at the edge of the street right of way, as shown in **Figure 10.1440(C)(2)**.

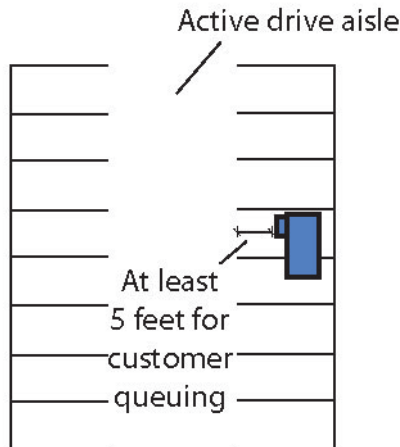
Figure 10.1440(C)(2): Distance from active driveway entrance



3. Shall be located at least 3 feet from the right of way or back of sidewalk, whichever provides the greater distance from the right of way.
4. Shall not occupy pedestrian walkways or required landscape areas.

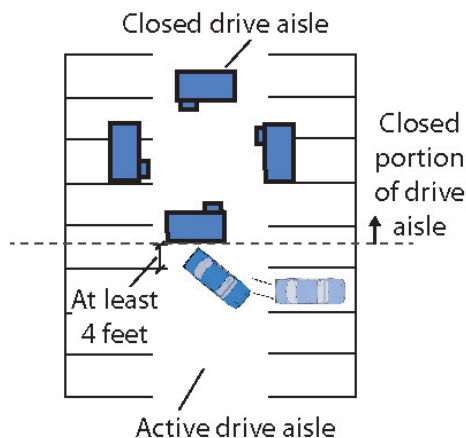
- Shall provide at least 5 feet between service windows or other customer service points and an active drive aisle. The distance shall be measured perpendicular to the service window/point as shown in **Figure 10.1440(C)(5)**.

Figure 10.1440(C)(5): Space between customer service point and active drive aisles



- Shall not occupy fire lanes or drive aisles necessary for vehicular circulation or fire/emergency vehicle access as determined by the Manager. Stands may occupy other drive aisles. In cases where a portion of a drive aisle is occupied, at least 4 feet of clear maneuvering space shall be provided between the closed portion of the drive aisle and the abutting active parking spaces, as shown in **Figure 10.1440(C)(6)**.

Figure 10.1440(C)(6): Space between active parking and closed parking

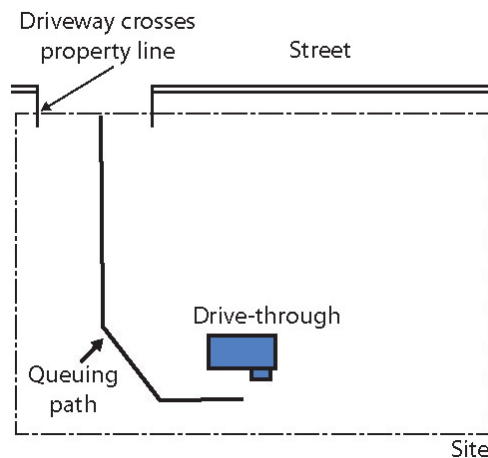


- Shall limit the visual effect of accessory items not used by customers, including but not limited to tanks, barrels and miscellaneous items, such as by using screening or storing them in containers to substantially limit views of such items from the street. Screening could be

temporary fencing or landscaping (such as landscaping in pots or planters). Storage containers could be small sheds or storage units. Screening shall:

- a. Significantly limit views of items within 3 feet of the ground; and
 - b. Allow views through the site between 3 and 10 feet to ensure surveillance of the site remains possible for crime prevention purposes.
8. To ensure adequate distance for at least three vehicles to line up behind the vehicle ordering at the drive-through, drive-through Commercial Stands shall have at least 85 feet in queuing distance behind each drive-through window where sales occur. Required queuing distance may be increased as determined by the Manager if a change in distance will promote traffic and pedestrian safety. Queuing distance shall be measured from the rear of the service window or point of service, along the queuing path (see **Figure 10.1440(C)(8)**), to where the driveway from the street crosses from the right of way into the property. The measurement method can be adjusted by the Manager for unusual circumstances or if needed to meet the intent of this standard.

Figure 10.1440(C)(8): Queuing Path



9. Drive-through stacking lanes and service areas shall not be located between the street and the Commercial Stand along Design Streets, in Design Districts and other locations where those elements are not allowed between a building and the street.
10. Awnings attached to the Commercial Stand shall have a minimum of 7 feet of clearance between the ground and the awning to allow access for pedestrians under the awning.
11. For Commercial Stands that have food service components, the following health and sanitation standards shall apply:
 - a. Applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and grease do not enter the City's wastewater infrastructure. Non-stormwater discharges to the City's stormwater system are prohibited.
 - b. Stands shall ensure the availability of a restroom with hand washing facilities for employees. Stands that serve food to walk-up customers shall ensure the availability of a restroom with hand washing facilities for customers. The restrooms must be within one-quarter mile or within 5 minutes walking distance and be available during the

stands' hours of operation. Applicants shall provide the City with documentation that restrooms are available.

D. Real Estate Sales Offices

1. The following standards apply to temporary real estate sales offices:
 - a. The office shall be located within the boundaries of the subdivision or site in which the real property is to be sold; and
 - b. Except for model homes, the property to be used for a temporary sales office shall not be permanently improved for that purpose; and
 - c. The Manager may impose conditions regarding:
 1. Temporary utility connections,
 2. The provision of adequate parking for office employees and visitors; and
 3. The duration of time the office shall be allowed to remain on the site.

E. Special Events

2. For Special Event activities that include food service, applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and grease do not enter the City's wastewater infrastructure. Non-stormwater discharges to the City's stormwater system are prohibited.

F. Temporary Commercial, Institutional or Industrial Buildings

3. The temporary buildings shall be associated with the primary use on the property.
4. Once a Temporary Use permit is approved for a temporary building, the applicant shall have one year to receive a Building Permit for the temporary building and the reconstruction of the primary use's building(s). The Temporary Use permit shall remain in effect as long as an active Building Permit exists for construction on the primary use's building(s) for reasons described in the "Temporary Commercial, Institutional or Industrial Buildings" definition in Article 3.
5. The temporary building shall be removed from the site within 30 days of the approval of the temporary certificate of occupancy for the primary use's building(s).
6. The temporary building shall be located within the site on which the primary use is located.
7. Temporary buildings are only allowed on sites where the primary use is already developed.
8. The temporary building shall comply with applicable Building Codes.
9. The use shall be able to be adequately served by public facilities, if applicable. The Manager may impose conditions regarding temporary utility connections.
10. The temporary building shall not be used as a dwelling or for sleeping.

G. Temporary Dwellings

11. The following standards apply for Temporary Dwellings intended for habitation during construction of another house on the same lot:
 - a. The Temporary Dwelling may remain on the site in conjunction with an active Building Permit for construction of the other house in the same lot.
 - b. The Temporary Dwelling must be removed within one month after approval of final occupancy for the new residence. A performance bond or other surety shall be posted to ensure removal of the Temporary Dwelling.

- c. Conditions may be imposed regarding temporary utility connections as necessary to protect public health, safety or welfare.
12. The following standards apply for Temporary Dwellings intended for habitation during recovery from an unforeseen event such as a fire, windstorm or flood:
- a. The need for the use shall be the direct result of a casualty loss such as fire, windstorm, flood or other severe damage by the elements to a pre-existing residential structure on the premises for which the permit is sought.
 - b. The use may remain on the site for the maximum amount of time needed to address the hardship but no longer than one year, with the exception that the approval may be renewed by the Manager as long as there exists an active Building Permit for repair or construction of another home on the lot.
 - c. Conditions may be imposed regarding temporary utility connections as necessary to protect public health, safety or welfare.

H. Other Temporary Uses

13. Applicants may submit applications for other temporary uses not specifically listed in this section. The uses shall:
- a. Be an allowed use in the land-use district; or
 - b. Be of a temporary nature and not have greater negative impacts than allowed uses in the land-use district.

10.1450 Additional Standards for Intermittent Uses

A. Intermittent Uses may occupy parking required for another use.

B. Farmers’ Markets

- 1. Shall be limited to 70 days of operation per year per site.
- 2. For activities that include food service, applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and grease do not enter the City’s wastewater infrastructure. Non-stormwater discharges to the City’s stormwater system are prohibited.

C. Special Events

- 1. An Intermittent Special Event shall be limited to not more than two days per week (Monday through Sunday).
- 2. For Special Events that provide food service, applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and grease do not enter the City’s wastewater infrastructure. Non-stormwater discharges to the City’s stormwater system are prohibited.

D. Warming/cooling Shelters

- 1. Shall be approved by the City Office of Emergency Management or similar responsible City office; and
- 2. Shall only provide shelter on City-designated days/nights.

E. Other Intermittent Uses

- 1. Applicants may submit applications for Intermittent Uses not specifically listed in this section. The uses shall:

- a. Not occur more than two days in any week (Monday through Sunday); and
- b. Be an allowed use in the land-use district; or
- c. Not have greater negative impacts than allowed uses in the land-use district.

10.1460 Additional Standards for Interim Uses

A. Temporary Uses currently in operation with a valid temporary use permit as of Dec. 5, 2013, that qualify for an Interim Use permit can be approved under the standards in effect at the time their last permit prior to Dec. 5, 2013, was issued, except the following new standards apply and supersede the standards in effect before Dec. 5, 2013:

- 1. Review processes as specified in Section 10.1430; and
- 2. Section 10.1431, except for (A), (B) and (K).; and
- 3. For Agricultural Product Sales, Section 10.1460(D)(1), (3), (4) and (5); and
- 4. For Commercial Stands, Long Term, Section 10.1460(E)(4), (6), (7), and (8).

Temporary Uses currently in operation also have the option of applying under the standards in effect at the time of application. A new application on the same site, such as for a different owner, shall comply with the standards in effect at the time of application.

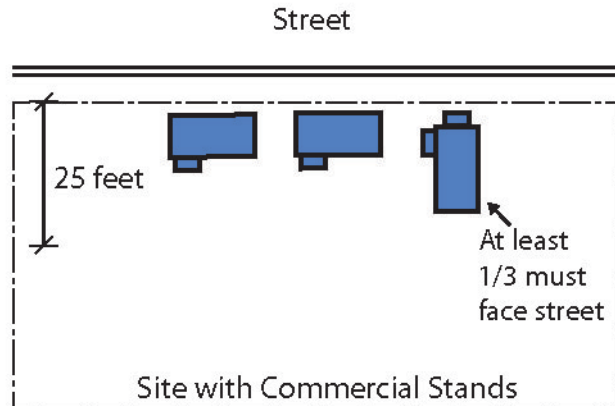
- B. Interim Uses shall not occupy parking needed to meet the minimum bicycle or automobile parking requirement for another use under Section 9.0800. Blocking automobile access to parking spaces shall be considered occupying the spaces.
- C. Uses shall not occupy required landscape or pedestrian areas.
- D. Agricultural Product Sales, Long Term
 - 1. Agricultural Product Sales that are Interim Uses may sell Christmas trees during the holiday season without acquiring a separate Christmas Tree Sales permit.
 - 2. Shall comply with all standards in **Section 10.1440(B)** for Agricultural Product Sales, Short Term.
 - 3. The applicant shall provide an estimate of the parking demand on the site and provide information about how parking demand will be accommodated, such as through off-street parking or on-street parking on adjacent blocks. That analysis shall consider parking needs of other uses on the site. Off-street parking may be required by the Manager if the applicant cannot demonstrate adequate parking is available to meet demand or it has been determined that a renewing Interim Use has experienced parking or related traffic issues on the site or on adjacent blocks.
 - 4. Shall have lighting to ensure a safe environment for customers. If permanent lighting, such as parking lot lighting, already exists on the site, the Manager may determine that the lighting satisfies this requirement. Otherwise, lighting (such as temporary lighting) shall be added that complies with the following:
 - a. At a minimum, areas intended to be occupied by customers, such as areas near service windows and customer seating, shall be illuminated when the use is in operation during hours of darkness; and
 - b. No direct light source shall be visible at the property line adjacent to residential at 3 feet above ground level; and
 - c. Lighting fixtures shall be oriented and/or shielded so as not to create glare on abutting properties; and

- d. The Manager may modify lighting standards if such modifications are deemed necessary and appropriate for the use and surrounding area and help meet the intent of the standard.
- 5. Tents, structures and greenhouses associated with Agricultural Product Sales uses that are visible from the street shall be kept in good repair and be maintained in a safe and clean condition in compliance with the following:
 - a. Tents, structure and greenhouses shall not have:
 - 1. Missing siding, skirting or roofing; or
 - 2. More than 10 percent of any side experiencing rust, peeling paint, corrosion or other deterioration; or
 - 3. Components or attachments in disrepair in a manner that causes an unsafe condition; and
 - b. Tents and canopies associated with the use shall not have:
 - 1. Tears in the tent/canopy material that exceed 6 inches; or
 - 2. Mold on more than 10 percent of the material; or
 - 3. A lack of anchoring; or
 - 4. Broken or non-functioning supports.

E. Commercial Stands, Long Term

- 1. Shall comply with all standards in **Section 10.1440(C)** for Commercial Stands, Short Term.
- 2. Shall be on a paved surface such as but not limited to concrete, asphalt, pavers and other surfaces as approved by the Manager. If new paved surface is added to a site to accommodate a Commercial Stand, the parking area shall comply with applicable parking lot standards, including those in **Section 9.0800**.
- 3. For sites with more than one Commercial Stand, at least one-third of the stands within 25 feet of a street right of way shall have a service window or other point of service facing the street on each street frontage. If the service window or point of service faces a landscape area between the stand and the sidewalk and no sidewalk entrance is located in within 30 feet of the service window or point of service, a paved pedestrian path is required between the stand and the sidewalk. A grouping of stands can share one path.

Figure 10.1460(E)(3): Street-facing service



4. The applicant shall provide an estimate of the parking demand on the site and provide information about how parking demand will be accommodated, such as through off-street parking or on-street parking on adjacent blocks. That analysis shall consider parking needs of other uses on the site. Off-street parking may be required by the Manager if the applicant cannot demonstrate adequate parking is available to meet demand or it has been determined that a renewing Interim Use has experienced parking or related traffic issues on the site or on adjacent blocks.
5. For Commercial Stands that have a food service component, the following health and sanitation standards shall apply:
 - a. If the applicant intends to contract with a third party for wastewater/graywater disposal, a copy of the contract must be provided to the City within 30 days of receiving a permit.
 - b. The City may require the food or beverage service operator to provide proof of payment or other documentation that wastewater and graywater are being disposed of properly.
6. Shall have lighting to ensure a safe environment for customers. If permanent lighting, such as parking lot lighting, already exists on the site, the Manager may determine that the lighting satisfies this requirement. Otherwise, lighting (such as temporary lighting) shall be added that complies with the following:
 - a. At a minimum, areas intended to be occupied by customers, such as areas near Commercial Stand service windows and customer seating, shall be illuminated when stands are in operation during hours of darkness; and
 - b. No direct light source shall be visible at the property line adjacent to residential at 3 feet above ground level; and
 - c. Lighting fixtures shall be oriented and/or shielded so as not to create glare on abutting properties; and
 - d. The Manager may modify lighting standards if such modifications are deemed necessary and appropriate for the use and surrounding area and help meet the intent of the standard.
7. Commercial Stands and their accessory items visible from the street shall be kept in good repair and be maintained in a safe and clean condition in compliance with the following:
 - a. Stands shall not have missing siding, skirting or roofing.
 - b. Stands shall not have more than 10 percent of any side experiencing rust, peeling paint, corrosion or other deterioration.
 - c. Stands shall not have components or attachments in disrepair in a manner that causes an unsafe condition.
 - d. Tents and canopies associated with the stand shall not have:
 1. Tears in the tent/canopy material that exceed 6 inches.
 2. Mold on more than 10 percent of the material.
 3. A lack of anchoring.
 4. Broken or non-functioning supports.
8. Structures used to provide shelter to customers shall only be tents, canopies and similar membrane structures. Other structures for customer shelter are not allowed. This does not preclude the use of awnings attached to and supported by a mobile unit or umbrellas designed

for café or picnic tables. All canopies, tents and other membrane structures erected shall comply with Building Code anchoring and engineering standards and Fire Code standards.

F. Other Interim Uses

1. Applicants may submit applications for other Interim Uses not specifically listed in this section.
2. The proposed Interim Use shall:
 - a. Be an allowed use in the land-use district; or
 - b. Be of an interim nature and not have greater negative impacts than allowed uses in the land-use district.
3. The proposal shall not have substantial adverse impacts on the City's infrastructure, including water, stormwater, wastewater, transportation, or parks systems.
4. For purposes of the review, the application narrative shall describe the following, as applicable:
 - a. The proposed use and its operations.
 - b. Location of parking and loading.
 - c. Street access points, including size, number, and location.
 - d. Hours of operation, including when certain activities are proposed to occur.
 - e. Crime prevention measures.
 - f. Environmental effects which may disturb neighboring property owners such as:
 1. Glare. This may be described in terms of location, design, intensity, orientation and shielding; and
 2. Noise; and
 3. Odors; and
 4. Dust; and
 5. Vibration.
5. The Manager may establish as a condition of approval a termination date for the Interim Use.
6. Interim Use permits for other uses not specifically listed shall expire at the earlier of:
 - a. The expiration date established by the Manager at the time of approval; or
 - b. The occurrence of any event identified in the Interim Use permit for the termination of the use.

SECTION 10.1500

VARIANCE AND ADJUSTMENT PROCEDURES

General

10.1501 Purpose

10.1502 Exceptions

Type II Variances

10.1510 Type II Minor Variance Provisions

Type II Adjustments

10.1520 Reduction in Minimum Street Frontage

10.1521 Modification of Regulations

10.1522 Modification of Dedications and Other Requirements

Type III Variances

10.1530 Type III Major Variance Provisions

10.1531 Private Residential Access for Dwellings under Unit Ownership

10.1532 Type III Major Variance Provisions to Maximum Height in the GBSV District

General

10.1501 Purpose

Variance and adjustment procedures are intended to allow modification of specific standards contained in the Community Development Code. A variance or adjustment may be permitted if the approval authority finds the applicant has satisfactorily addressed all the approval criteria. If a variance or adjustment request is approved, the approval authority may attach conditions to the final order to mitigate adverse impacts which might result from the approval.

10.1502 Exceptions

The following regulations of the Community Development Code may not be varied:

- A. The uses permitted in the land use district.
- B. Definitions.
- C. The minimum and maximum residential development density allowed in a land use district.
- D. Restrictions on uses or development that contain the word "prohibited."

Type II Variances

10.1510 Type II Minor Variance Provisions

The Type II procedure shall be used to process a minor variance request involving a 20 percent reduction or 20 percent increase from a quantitative provision of the Community Development Code, with the exception that all variances to maximum height in the GBSV District shall be reviewed under the Type III process described in **Section 10.1530**. The Manager shall grant a variance if all of the following criteria are satisfied:

- A. The need for the variance does not result from prior actions of the applicant or owner, or from personal circumstances of the applicant or owner, such as financial circumstances.
- B. To meet the need, the request is the minimum necessary variation from the Community Development Code requirement.
- C. There are development constraints associated with the property, or the present use or permitted use of the property, which make development of a permitted use impractical; or the variance is needed to allow the applicant to enjoy a substantial property right possessed by a majority of property owners in the same vicinity.
- D. The purposes of the Community Development Code and the applicable policies of the Community Development Plan would be equally met or advanced by a variation from the development requirement.

Type II Adjustments

10.1520 Reduction in Minimum Street Frontage

Intent. The City's transportation policies assure public street connectivity in general, and specifically require public street frontage and access for residential parcels.

Adjustment. However, the Manager under a Type II procedure may reduce the minimum street frontage required if 1) such reduction is necessary to satisfy neighborhood circulation and/or future street plan provisions (**Section 9.0700**), and 2) Associated findings show either condition (A) or condition (B) exists, and condition (C) exists:

- A. Topographical constraints preclude the application of the minimum standard; or
- B. The land division is part of an infill process where the application of the minimum street frontage standard would prohibit the division of the parcel. Infill development within LDR-5, LDR-7, TLDR and TR shall also be subject to the standards of **Section 4.0138**; and
- C. It is not feasible to extend the public street system to provide local circulation and the minimum street frontage. For purposes of the section "not feasible" shall mean that there is no reasonable connection to another public street; or that the property configuration or physical constraints preclude connection; or lotting patterns surrounding the site or development patterns preclude street extensions, and/or an adopted Future Street Plan affects the site.

10.1521 Modification of Regulations

- A. Under the Type II procedure, the Manager may modify standards in the Community Development Code regarding public facilities, parking requirements, building lot coverage, yard setbacks, building height, and landscaping if any one of the following criteria is satisfied:

1. The site design reduces the need for major alterations of the site, such as excavations, retaining walls, steep road cuts and fill, and extensive grading;
 2. The site design has provisions for major recreational facilities such as playgrounds, swimming pools, tennis courts, and similar facilities;
 3. There is a maximum retention of natural topographic features, such as drainage swales, slopes, ridge lines, rock outcroppings, vistas, natural plant formations, and trees;
 4. The street system is designed in an east/west alignment to maximize solar orientation. Attached dwellings on a single lot include solar space heating or water heating devices, or insulation beyond the minimum standards of the Building Code.
- B.** Upon a finding that the applicant's plan substantially achieves any of the preceding criteria, the Manager may modify the identified standards within the following prescribed limits:
1. Front, side, and rear yards may be reduced to zero when in compliance with the Oregon State Structural Specialty Code.
 2. The requirements for the installation of sidewalks may be modified if provisions are made to provide off-street parking in addition to that required in the off-street parking section of this code, as follows:
 - a. Detached dwellings - two additional off-street parking spaces.
 - b. Attached dwellings - for each unit, one-half additional off-street parking space for each bedroom in addition to the first bedroom. In cases where a one-half space occurs in a total figure, the standards shall be increased to the next whole figure.
 3. Height limitations may be increased, provided the additional height does not exceed 45 feet in a residential district. Additional height cannot be approved under **Section 10.1521** in the GBSV District.
 4. Building lot coverage may be increased provided the additional coverage does not exceed 50 percent.
 5. Parking requirements may be reduced by 10 percent.

10.1522 Modification of Dedications and Other Requirements

Under the Type II procedure, the Manager may reduce or eliminate a dedication of land or other requirement if the requirement, as determined by the Manager, does not meet the requirements of the Fifth Amendment to the United States Constitution.

Type III Variances

10.1530 Type III Major Variance Provisions

The Type III procedure shall be used to process a major variance request involving more than a 20 percent reduction or 20 percent increase from a quantitative development standard or a request to deviate from a qualitative standard or a request to deviate from the maximum height requirements in the GBSV District as outlined in **Section 10.1532**. Except for applications for a variance to maximum height in the GBSV District, where additional criteria apply, the hearing body shall grant the variance if all of the criteria identified in **Section 10.1510** and one of the following criteria is met:

- A. The circumstances that apply to the site or to the present or permitted use of the site do not typically apply to other properties in the same vicinity or land use district and are unique or unusual; or,
- B. It would be more detrimental to the public safety or more injurious to the public welfare to apply the development standard than to grant the proposed variance.

10.1531 Private Residential Access for New Dwellings under Unit Ownership

Private residential access to a public street for new dwellings under unit ownership may be authorized under the Type III procedure, if the proposal is consistent with the following criteria:

- A. The proposed access shall not eliminate or make impractical the establishment of a planned public street or continuation of an existing public street. The public circulation needs of the area within one-quarter mile shall be accommodated without a public street through the site.
- B. Additional off-street parking shall be provided to dwellings served by an access in order to replace the lost on-street parking.

10.1532 Type III Major Variance Provisions to Maximum Height in the GBSV District

- A. The Planning Commission is the decision authority.
- B. Applicants must address the criteria located in **Section 10.1510** and one of the criteria outlined in **Section 10.1530** and comply with **Section 10.1532.C.1** or **Section 10.1532.C.2** as described below.
- C. The structure shall not be visible from any parcels outside of the GBSV District. Demonstration of compliance with this standard must be provided as noted in **Section 10.1532.C.1** or **Section 10.1532.C.2**.
 - 1. A site plan and elevations documenting that:
 - a. The structure is no taller than the existing evergreen canopy as measured from the downslope side, or
 - b. The structure is topographically screened by its placement behind a hill, is located in a ravine or is screened by other natural features.
 - 2. Submittal of a photo simulation from parcels outside of the GBSV District using 3D Analyst or another program as approved by the Manager accompanied by an analysis of the contrast rating of the proposed structure using the Bureau of Land Management’s Manual 8431-Visual Contrast Rating or other tool approved by the Manager.

The structure must meet the Class I or Class II Objectives found in Appendix 2 of the Bureau of Land Management’s Manual 8431-Visual Resource Contrast Rating when the structure is observed from viewpoints outside of the GBSV District.

If other approved tools are used, the analysis of the siting of the structure shall determine that, when the structure is observed from viewpoints outside of the GBSV District:

- a. The existing character of the landscape is preserved. The level of change to the character of Gresham Butte is very low and does not attract attention away from the forested landscape of Gresham Butte, or

- b.** The existing character of the landscape is retained. The level of change is low and changes must blend into the predominant natural features of the landscape.
- 3.** If vegetation used for screening is removed through natural circumstances such as disease or fire, replacement vegetation must be planted within 6 months of the event and be of a species that will grow to an equal or greater size, height, and canopy spread as the vegetation that was removed. Replacement plantings must be a minimum of 2.5 caliper inches for deciduous trees and a minimum of 8 feet in height for evergreen trees.

SECTION 10.1600 FOOD AND BEVERAGE CARTS

General

10.1601 General

Permitted Uses

10.1620 Permitted Uses

Development Standards

10.1630 Standards and Review Processes

10.1640 Standards for Food and Beverage Carts

General

10.1601 General

This section applies to Food and Beverage Carts. The definition for Food and Beverage Carts is found in **Article 3**.

Permitted Uses

10.1620 Permitted Uses

Table 10.1620 identifies where Food and Beverage Carts are allowed. They are allowed in addition to the uses normally allowed in the underlying land-use district.

- P = Permitted use.
- L = Use is permitted, but is limited in the extent to which it may be permitted.
- NP = Use not permitted.

Table 10.1620: Where Food and Beverage Carts are Permitted

	Low-density residential districts ¹	Multi-family districts ²	Commercial and mixed-use districts ³	Industrial districts (GI, HI, RTI-SW, IND-SW)	Sites of approved institutional uses ⁴
Food and Beverage Carts, ^{5,6}	NP	NP	P	NP	L ⁷

Table 10.1620 Notes:

- 1 LDR-5, LDR-7, TLDR, TR, LDR-PV, VLDR-SW, LDR-SW, THR-SW.
- 2 MDR-12, MDR-24, CMF, DRL-1, CNRM, MDR-PV, HDR-PV.
- 3 Includes districts that allow commercial that are not listed in footnote 1 or 2 and that are not listed as industrial districts in **Table 10.1420**. These are CC, CMU, DCC, DMU, DRL-2, DTM, DEM, DCL, MC, CNRM, MUE-PV, NC-PV, OFR, RTC, SC, SC-RJ, TC-PV, CNTH, CNTM, VC-SW, EC-PV, GC, NC, NC-SW.
- 4 Permitted uses are allowed on approved institutional sites even if they fall under another category in this table where the Food and Beverage Cart use is not permitted.
- 5 Drive-through Food and Beverage Carts are permitted only where drive-through Business and Retail Services and Trade uses are permitted.
- 6 Food and Beverage service is permitted as an accessory use to some Temporary, Intermittent and Interim Uses, as described **Section 10.1400** and the definitions for those uses. When conducted in these situations, the food service activity is exempt from the standards in **Section 10.1600**.
- 7 Permitted for institutions with a minimum site size of 10 acres if consistent with commercial activity allowed as part of the Institutional Classifications in **Section 3.0270**. For example, "support commercial" is listed as an accessory use in **Section 3.0276** Schools.

Development Standards

10.1630 Standards and Review Processes

Table 10.1630 designates time limits and review processes for Food and Beverage Carts. Applications shall be reviewed as specified in **Article 11**.

- A. Food and Beverage Carts shall be required to acquire a development permit if they remain on one site more than four hours in any one day.

Table 10.1630: Permit Duration, Renewals, Review Processes and Additional Standards

	Maximum permit duration	Are renewals permitted?	Review process	Additional standards
Food and Beverage Carts	1 year	Yes ¹	Type II, new or expanding site ² Type I, replacement cart on previously approved site ³	Section 10.1640

Table 10.1630 Notes:

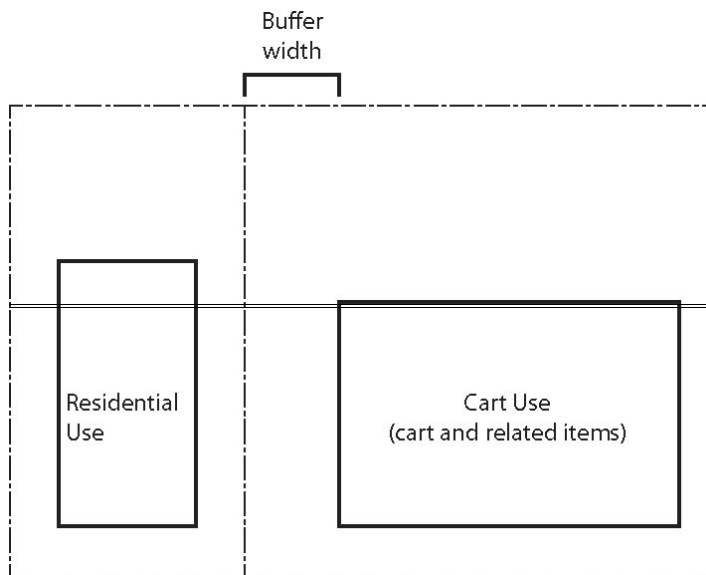
- 1 Food and Beverage Carts permits would renew automatically with the business license except when the use has been subject to a City Code Compliance enforcement action to address an uncorrected violation as provided for in Gresham Revised Code Article 7.50. Enforcement actions include but are not limited to civil penalties, citations and abatement. If an enforcement action has occurred, the use shall be reviewed at the time of renewal following the Type II process in the same manner as an application for a new permit. In such a case, the enforcement action shall be considered during the renewal application review, such as when determining conditions of approval.
- 2 The initial review for Food and Beverage Carts on a site shall be a Type II review. This would apply the first time any Food and Beverage Cart application was filed for a site. In addition, a Type II process is required if additional uses occupy the site, such as a site adding additional Food and Beverage Carts beyond the number approved in the first application, such as a site adding a third Food and Beverage Cart on a site approved for two carts.

- 3 Food and Beverage Cart can replace a previously approved Food and Beverage Cart under a Type I process, as long as the permit obtained through a Type II review is active at the time of the Type I permit or was active within the last 12 months prior to the Type I permit. Applications from new owners shall comply with the latest Development Code standards.

10.1640 Standards for Food and Beverage Carts

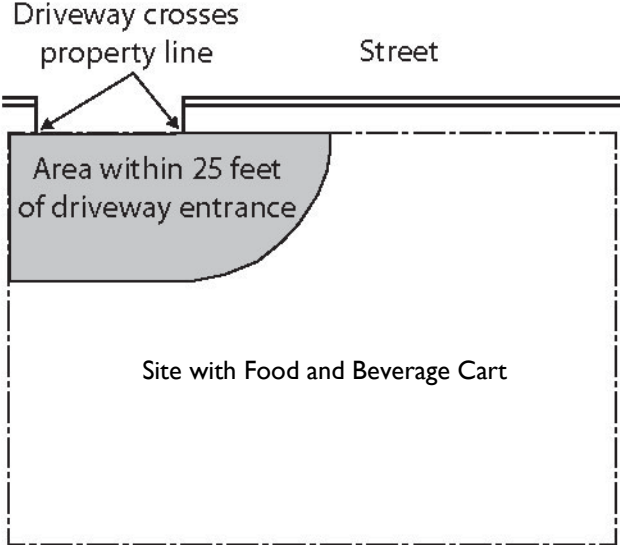
- A. Uses currently in operation with a valid Temporary Use permit as of Dec. 5, 2013, that are mobile units with at least 50 percent of sales coming from food and beverages can be approved under the standards in effect at the time their last permit prior to Dec. 5, 2013, was issued, except the following new standards apply and supersede the standards in effect before Dec. 5, 2013:
 1. Review processes as specified in **Section 10.1630**; and
 2. **Section 10.1640(G), (H), (J), (K), (L), (M), (V) and (Z).**
 Temporary Uses currently in operation also have the option of applying under the standards in effect at the time of application.
- B. Food and Beverage Carts shall be on a paved surface such as but not limited to concrete, asphalt, pavers and other surfaces as approved by the Manager. If new paved surface is added to a site to accommodate a cart, the parking area shall comply with applicable parking lot standards, including those in **Section 9.0800**.
- C. Carts shall not occupy pedestrian walkways or required landscape areas.
- D. Carts shall not occupy parking needed to meet the minimum bicycle or automobile parking requirement for another use under Section 9.0800. Blocking automobile access to parking spaces shall be considered occupying the spaces.
- E. If a site where a cart is located abuts a lot with a residential use, the cart use shall meet the narrowest minimum buffer width required in **Section 9.0100** for a proposed commercial use as shown in **Table 9.0111(B)**. The Option 2 buffer width, when available, shall satisfy this standard. Buffer trees, shrubs and screening from that table are not required. Buffer widths shall be allowed to overlap with setback requirements.

Figure 10.1640(E): Buffer Width



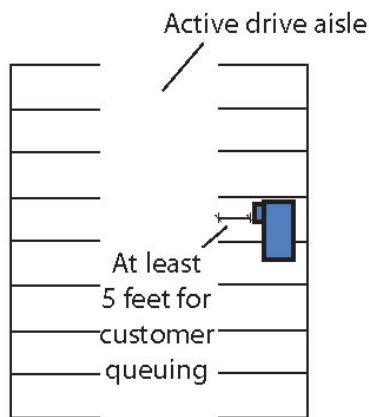
- F. The use shall provide adequate vision clearance as required by **Section 9.0200**. (Clear vision exceptions in land-use districts and Plan Districts still apply.)
- G. Ingress and egress shall be safe and adequate when combined with the other uses of the property as required by **Appendix 5**.
- H. Uses shall not create tripping hazards in pedestrian or vehicular areas with items such as cords, cables and pipes.
- I. Awnings attached to Food and Beverage Carts shall have a minimum of 7 feet of clearance between the ground and the awning to allow access for pedestrians under the awning.
- J. Cart signage:
 1. Shall comply with applicable requirements of **Appendix 6**.
 2. Uses shall be required to post City Food and Beverage Cart permits; City business licenses; and Multnomah County Health Department food service licenses in a location visible to customers.
- K. Unless otherwise specified in this section, Food and Beverage Carts shall be exempt from a finding of adequate public facilities unless it is determined that the proposed use exceeds the capacity of existing public facilities or causes unsafe conditions.
- L. The Manager may impose on any approval conditions intended to minimize adverse impacts created by the use on surrounding property and uses.
- M. Carts are exempt from land-use district density, floor-area ratio and Design District design guidelines and standards.
- N. Carts shall meet the following dimensional requirements:
 1. Land-use district minimum setbacks shall be met for the site perimeter.
 2. Carts shall not be located within 25 feet of an active driveway entrance as measured in all directions from where the driveway enters the site at the edge of the street right of way, as shown in **Figure 10.1640(N)(2)**.

Figure 10.1640(N)(2): Distance from Active Driveway Entrance



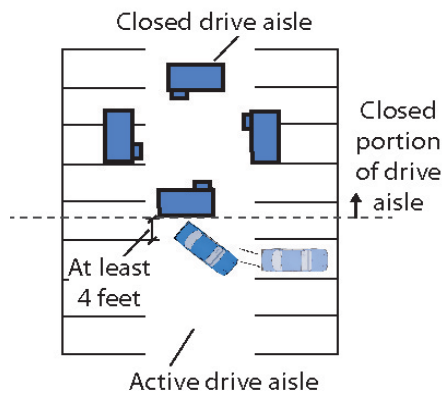
3. Carts shall be located at least 3 feet from the right of way or back of sidewalk, whichever provides the greater distance from the right of way.
4. Carts shall provide at least 5 feet between service windows or other customer service points and an active drive aisle. The distance shall be measured perpendicular to the service window/point as shown in **Figure 10.1640(N)(4)**.

Figure 10.1640(N)(4): Space between customer service point and active drive aisles



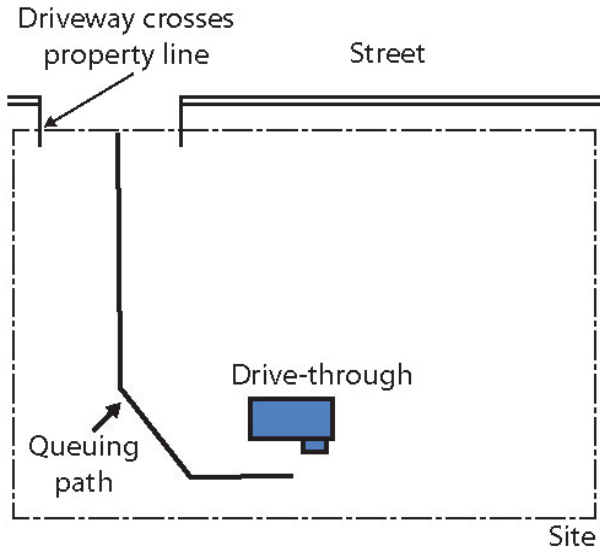
5. Carts shall remain at least 10 feet away from other Food and Beverage Carts or Commercial Stands.
- O.** Carts shall not occupy fire lanes or drive aisles necessary for vehicular circulation or fire/emergency vehicle access as determined by the Manager. Carts may occupy other drive aisles. In cases where a portion of a drive aisle is occupied, at least 4 feet of clear maneuvering space shall be provided between the closed portion of the drive aisle and the abutting active parking spaces, as shown in **Figure 10.1640(O)**.

Figure 10.1640(O): Space Between Active Parking and Closed Parking



- P. Carts shall limit the visual effect of accessory items not used by customers, including but not limited to tanks, barrels and miscellaneous items, such as by using screening or storing them in containers to substantially limit views of such items from the street. Screening could be temporary fencing or landscaping (such as landscaping in pots or planters). Storage containers could be small sheds or storage units. Screening shall:
 1. Significantly limit views of items within 3 feet of the ground; and
 2. Allow views through the site between 3 and 10 feet to ensure surveillance of the site remains possible for crime prevention purposes.
- Q. For drive-through carts, the following standards apply:
 1. To ensure adequate distance for at least three vehicles to line up behind the vehicle ordering at the drive-through, drive-through Food and Beverage Carts shall have at least 85 feet in queuing distance behind each drive-through window where sales occur. Required queuing distance may be increased as determined by the Manager if a change in distance will promote traffic and pedestrian safety. Queuing distance shall be measured from the rear of the service window or point of service, along the queuing path, to where the driveway from the street crosses from the right of way into the property, as shown in **Figure 10.1640(Q)**. The measurement method can be adjusted by the Manager for unusual circumstances or if needed to meet the intent of this standard.

Figure 10.1640(Q): Queuing Path

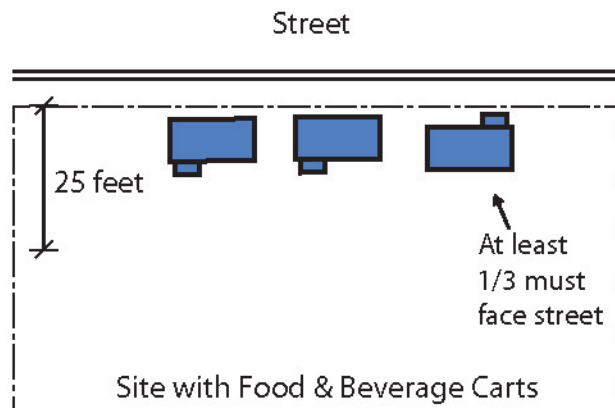


2. Drive-through stacking lanes and service areas shall not be located between the street and the Food and Beverage Cart along Design Streets, in Design Districts and other locations where those elements are not allowed between a building and the street.
- R. The following health and sanitation standards shall apply:
 1. Applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and

grease do not enter the City's wastewater infrastructure. Non-stormwater discharges to the City's stormwater system are prohibited.

2. Carts shall ensure the availability of a restroom with hand washing facilities for employees. Carts that serve food to walk-up customers shall ensure the availability of a restroom with hand washing facilities for customer. The restrooms must be within one-quarter mile or within 5 minutes walking distance and be available during the carts' hours of operation. Applicants shall provide the City with documentation that restrooms are available.
 3. If the applicant intends to contract with a third party for wastewater/graywater disposal, a copy of the contract must be provided to the City within 30 days of receiving a permit.
 4. The City may require the food or beverage service operator to provide proof of payment or other documentation that wastewater and graywater are being disposed of properly.
- S. For sites with more than one Food and Beverage Cart, at least one-third of the carts within 25 feet of each street right of way shall have a primary service window facing the street. If the cart is within 25 feet of more than one street, it shall face its primary service window to the primary street. The primary street shall be the street with the highest classification or as determined by the Manager. If the service window faces a landscape area between the cart and the sidewalk and no sidewalk entrance is located within 30 feet of the service window, a paved pedestrian path is required between the cart and the sidewalk. A grouping of carts can share one path.

Figure 10.1640(S): Street-Facing Service



- T. The applicant shall provide an estimate of the parking demand on the site and provide information about how parking demand will be accommodated, such as through off-street parking or on-street parking on adjacent blocks. That analysis shall consider parking needs of other uses on the site. Off-street parking may be required by the Manager if the applicant cannot demonstrate adequate parking is available to meet demand or it has been determined that a renewing Food and Beverage Cart has experienced parking or related traffic issues on the site or on adjacent blocks.
- U. Carts shall have lighting to ensure a safe environment for customers. If permanent lighting, such as parking lot lighting, already exists on the site, the Manager may determine that the lighting satisfies this requirement. Otherwise, lighting (such as temporary lighting) shall be added that complies with the following:

1. At a minimum, areas intended to be occupied by customers, such as areas near Food and Beverage Cart service windows and customer seating, shall be illuminated when carts are in operation during hours of darkness; and
 2. No direct light source shall be visible at the property line adjacent to residential at 3 feet above ground level; and
 3. Lighting fixtures shall be oriented and/or shielded so as not to create glare on abutting properties; and
 4. The Manager may modify lighting standards if such modifications are deemed necessary and appropriate for the use and surrounding area and help meet the intent of the standard.
- V.** Carts and their accessory items visible from the street shall be kept in good repair and be maintained in a safe and clean condition in compliance with the following:
1. Carts shall not have missing siding, skirting or roofing.
 2. Carts shall not have more than 10 percent of any side experiencing rust, peeling paint, corrosion or other deterioration.
 3. Carts shall not have components or attachments in disrepair in a manner that causes an unsafe condition.
 4. Tents and canopies associated with the carts shall not have:
 - a. Tears in the tent/canopy material that exceed 6 inches.
 - b. Mold on more than 10 percent of the material.
 - c. A lack of anchoring.
 - d. Broken or non-functioning supports.
- W.** Food and Beverage Carts that require a development permit shall only conduct business from a mobile unit that can be pulled or pushed down a street or highway, such as a trailer. Cart business cannot be conducted in a mobile unit that is self-propelled, such as trucks or recreational vehicles. Vehicles designed to be self-propelled that have had the engines removed shall still be considered self-propelled and shall not be used as Food and Beverage Carts that require a development permit.
- X.** Mobile units shall not have any internal floor space available to customers.
- Y.** Food and Beverage Carts mobile units shall not exceed 26 feet in length.
- Z.** Structures used to provide shelter to customers shall only be tents, canopies and similar membrane structures. Other structures for customer shelter are not allowed. This does not preclude the use of awnings attached to and supported by a mobile unit or umbrellas designed for café or picnic tables. All canopies, tents and other membrane structures erected on Food and Beverage Cart sites shall comply with Building Code anchoring and engineering standards and Fire Code standards.