



**PROPOSED LAND USE ORDINANCE NO. 833**  
***Individual and General Notice 2018-03***  
***May 25, 2018***

The Washington County Planning Commission and Board of Commissioners (Board) will soon consider proposed **Ordinance No. 833**. Listed below is a description of the ordinance, hearing dates and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Long Range Planning at [lutplan@co.washington.or.us](mailto:lutplan@co.washington.or.us) or 503-846-3519.

**ORDINANCE PURPOSE AND SUMMARY:**

**Ordinance No. 833** proposes to amend the Community Development Code to address recent revisions to state law, clarify existing language and make minor cleanup changes to specific sections, as detailed in the Key Provisions section on page 2 of this notice.

**Who is Affected**

All county residents are potentially affected by this ordinance.

**What Land is Affected**

All unincorporated county land is potentially affected by this ordinance.

**PUBLIC HEARING INFORMATION/LOCATION:**

Hearings are in the Shirley Huffman Auditorium  
Hillsboro Civic Center, 150 E. Main St., Hillsboro

**Planning Commission**

**6:30 p.m.**

**June 27, 2018**

**Board of Commissioners**

**10 a.m.**

**August 7, 2018**

At its August 7, 2018, public hearing, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted August 7, 2018, it would become effective Sept. 6, 2018.

### KEY PROVISIONS:

- Adds figures and clarifies residential yard definitions.
- Removes internal setback requirements for multiple buildings on a development site.
- Adds mixed-use and parking related definitions.
- Clarifies that bicycle parking spaces must be “secured, long-term” when used to reduce minimum parking requirements.
- Clarifies setbacks for open balconies and accessory structures in required yards.
- Allows Type I process for maintenance of sanitary sewer facilities in the floodplain.
- Provides alternative submittal and follow-up requirements for Clean Water Services enhancement projects in degraded riparian corridors, water areas and wetlands.
- Adds definition of alternating proprietor and allows marijuana processors to share facilities in limited circumstances as regulated by the Oregon Liquor Control Commission.
- Clarifies that Section 440-10, (Alteration or Expansion of Uses Not Conforming to the Access Requirements) applies to nonconforming access, not the use.
- Updates survey and monumentation requirements.

### AFFECTED LAND USE PLANNING DOCUMENTS:

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#### Community Development Code

- Section 106 – Definitions
  - Section 406 – Building, Siting and Architectural Design
  - Section 413 – Parking and Loading
  - Section 418 – Setbacks
  - Section 421 – Flood Plain and Drainage Hazard Area Development
  - Section 422 – Significant Natural Resources
  - Section 430 – Special Use Standards
  - Section 440 – Nonconforming Uses and Structures
  - Section 602 – General Provisions
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### HOW TO SUBMIT COMMENTS:

- Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings.
- Written testimony, including email, may be sent to the Planning Commission or Board in advance of the public hearings at the address shown on the front of this notice.
- Include the author’s name and address with any public testimony.

#### Staff Contact

Michelle Miller, Senior Planner, michelle\_miller@co.washington.or.us, 503-846-8101

The ordinance is available for review at the following locations:

- [www.co.washington.or.us/landuseordinances](http://www.co.washington.or.us/landuseordinances)
- Department of Land Use & Transportation
- Cedar Mill Community Library and Tigard Public Library
- Community Participation Organizations (CPOs), call 503-846-6288

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

ORDINANCE 833

An Ordinance addressing Minor Amendments to the Community Development Code, an Element of the Comprehensive Plan

The Board of County Commissioners of Washington County, Oregon (“Board”) ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791, 792, 797-802, 804, 809-811, 813-815, 820, 822, 823-824, 826-828, and 831.

B. As part of its ongoing planning efforts, Washington County staff has identified minor amendments to the Community Development Code to maintain and improve the efficiency and effectiveness of the Comprehensive Plan. Such changes include definitions

1 related to parking standards, change in process and submittal requirements for maintenance,  
2 preservation or repair of sanitary sewer facilities, provisions related to marijuana facilities,  
3 clarify access provisions relating to nonconforming uses and structures, and add a provision to  
4 survey and monumentation requirements. The Board recognizes that such changes are  
5 necessary from time to time for the benefit and welfare of the residents of Washington  
6 County, Oregon.

7 C. Under the provisions of Washington County Charter Chapter X, the  
8 Department of Land Use and Transportation has carried out its responsibilities, including  
9 preparation of notices, and the County Planning Commission has conducted one or more  
10 public hearings on the proposed amendments and has submitted its recommendations to the  
11 Board. The Board finds that this Ordinance is based on that recommendation and any  
12 modifications made by the Board, as a result of the public hearings process.

13 D. The Board finds and takes public notice that it is in receipt of all matters and  
14 information necessary to consider this Ordinance in an adequate manner and finds that this  
15 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan  
16 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington  
17 County Charter, the Washington County Community Development Code, and the Washington  
18 County Comprehensive Plan.

19 SECTION 2

20 The following exhibit, attached hereto and incorporated herein by reference, is adopted  
21 as an amendment to the designated document as follows:

22 A. Exhibit 1 (11 pages), amends the following sections of the Community

1 Development Code:

- 2 1. Section 106 – Definitions;
- 3 2. Section 406 – Building, Siting and Architectural Design;
- 4 3. Section 413 – Parking and Loading;
- 5 4. Section 418 – Setbacks;
- 6 5. Section 421 – Flood Plain and Drainage Hazard Area Development;
- 7 6. Section 422 – Significant Natural Resources;
- 8 7. Section 430 – Special Use Standards;
- 9 8. Section 440 – Nonconforming Uses and Structures; and
- 10 9. Section 602 – General Provisions.

11 SECTION 3

12 All other Comprehensive Plan provisions that have been adopted by prior ordinance,  
13 which are not expressly amended or repealed herein, shall remain in full force and effect.

14 SECTION 4

15 All applications received prior to the effective date shall be processed in accordance  
16 with ORS 215.427.

17 SECTION 5

18 If any portion of this Ordinance, including the exhibit, shall for any reason be held  
19 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be  
20 affected thereby and shall remain in full force and effect.

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1     SECTION 6

2             The Office of County Counsel and Department of Land Use and Transportation are  
3 authorized to prepare planning documents to reflect the changes adopted under Section 2 of  
4 this Ordinance, including deleting and adding textual material and maps, renumbering pages  
5 or sections, and making any technical changes not affecting the substance of these  
6 amendments as necessary to conform to the Washington County Comprehensive Plan format.

7     SECTION 7

8             This Ordinance shall take effect thirty (30) days after adoption.

9             ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, being the \_\_\_\_\_ reading  
10 and \_\_\_\_\_ public hearing before the Board of County Commissioners of Washington  
11 County, Oregon.

12   BOARD OF COUNTY COMMISSIONERS  
13   FOR WASHINGTON COUNTY, OREGON

14   \_\_\_\_\_  
15   CHAIRMAN

16   \_\_\_\_\_  
17   RECORDING SECRETARY

17                             READING

17                             PUBLIC HEARING

18     First \_\_\_\_\_

18     First \_\_\_\_\_

19     Second \_\_\_\_\_

19     Second \_\_\_\_\_

20     Third \_\_\_\_\_

20     Third \_\_\_\_\_

21     Fourth \_\_\_\_\_

21     Fourth \_\_\_\_\_

22     Fifth \_\_\_\_\_

22     Fifth \_\_\_\_\_

       Sixth \_\_\_\_\_

       Sixth \_\_\_\_\_

       VOTE: *Aye*: \_\_\_\_\_

*Nay*: \_\_\_\_\_

       Recording Secretary: \_\_\_\_\_ Date: \_\_\_\_\_

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

## 1. SECTION 106 - DEFINITIONS

**106-117 Lot of Record, Urban.** ~~(Applicable to all the urban districts). Any lot or parcel created by a lawful sales contract or deed and of record prior to March 26, 1984, the effective date of this Code. Two or more such lots or parcels which are contiguous and under identical ownership of record on the effective date of this Code shall be deemed separate lots of record only if the creation of the lot(s) or parcel(s) was approved by the County under a County partitioning or subdivision ordinance. A lot of record does not authorize development of a lot or parcel which does not comply with the requirements of a "parcel" as defined by ORS 215. Section 106-151~~

**106-221 Yard (Setback).** An open space on a lot or parcel which is unoccupied or unobstructed by buildings or other structures from the ground upward, except by landscaping or vegetation or as provided in Section 418 or other sections of this Code. Required yards shall be measured from the property line, sidewalk, or easement for public travel, whichever is closest to the building line of the lot or parcel a building will be constructed on, except as provided otherwise by the primary district. See Figure 106-3 below.

**106-221.2 Yard, Rear.** A yard extending across the full width of the lot between the rear of a building or structure and the nearest point of the rear lot line. In those instances where a single-family dwelling's primary access (from a deck, patio, porch, or other similar treatment) to the lot's main outdoor yard area (does not include the front yard) is oriented to a side lot line and not the rear lot line, the primary district's rear and side yards may shall be reversed. (See Figures 106-3 and 106-4 below.) For multifamily developments where an individual dwelling unit's primary access to the lot's main outdoor yard area is oriented to a side lot line and not the rear lot line, the primary district's rear and side yards shall be reversed. See Figure 106-5. Any additional screening and buffering setback required by Section 411 shall also be provided the length of the rear lot line.

**106-221.3 Yard, Side.** A yard between a building or structure and the side lot line extending from the front yard to the rear yard, unless the dwelling's rear and side yard has been reversed as described in Section 106 Yard, Rear. The width of the side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building. ~~In those instances where a dwelling's primary access (from a deck, patio, porch, other similar treatment) to the lot's main outdoor yard area (does not include the front yard) is oriented to a side lot line and not the rear lot line, the primary district's rear and side yards shall be reversed. (See Figures 1 and 2 below)~~ Any additional screening and buffering setback required by Section 411 shall also be provided the length of the side lot line.

Figure 1. Example of a Detached Single Family Dwelling

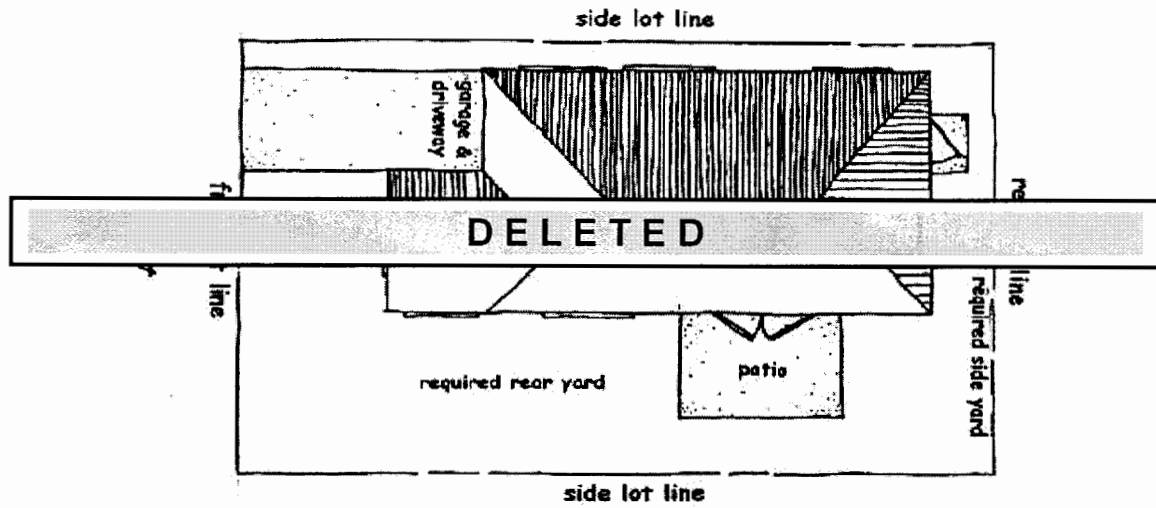
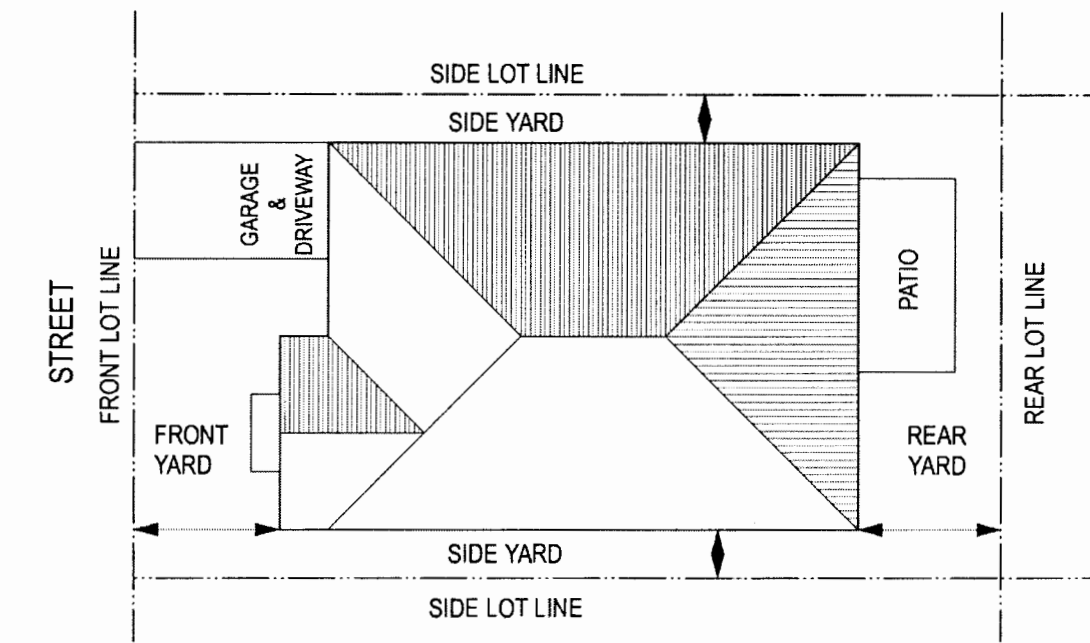


Figure 106-3. Example of a Single-Family Lot with Standard Yards (Setbacks)



abcdef Proposed additions  
~~abcdef~~ Proposed deletions



Figure 2. Example of Multi-Family Development

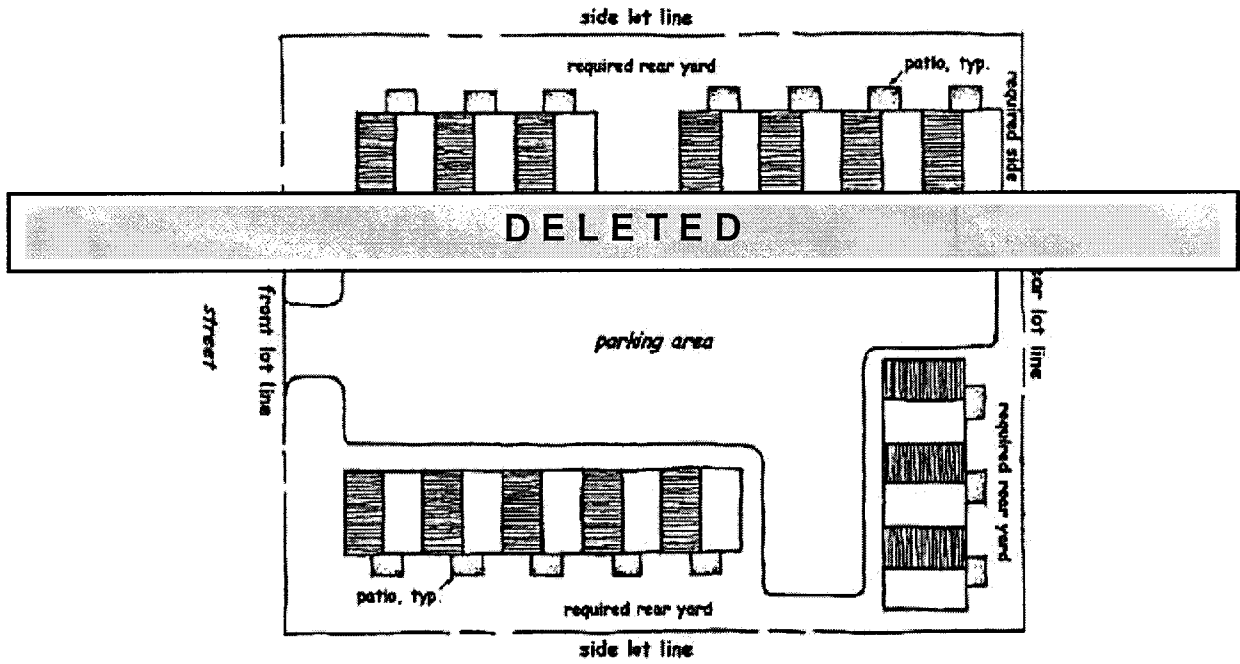
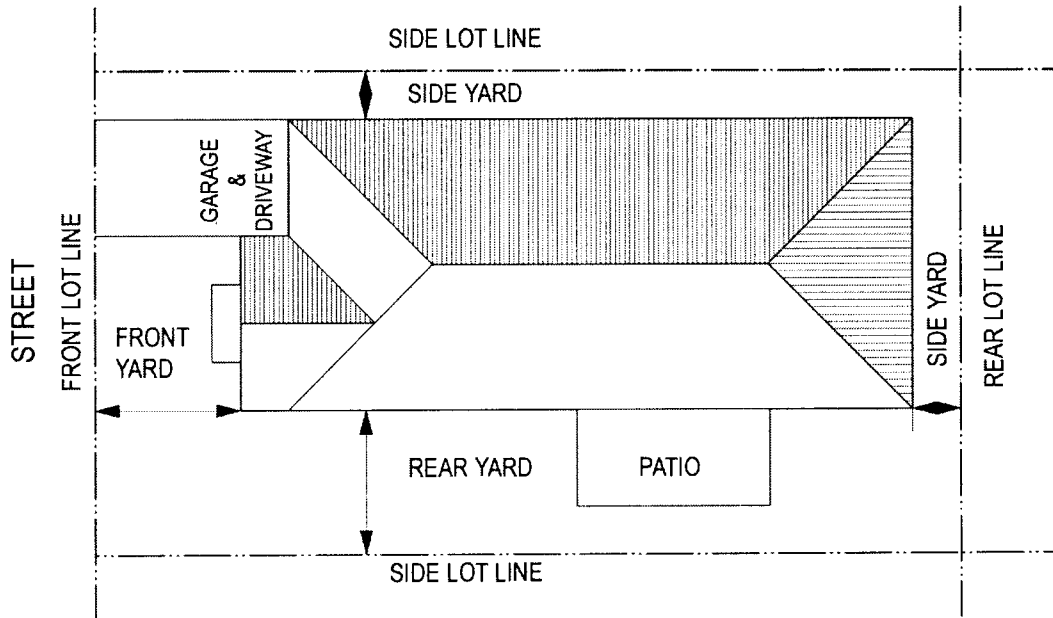
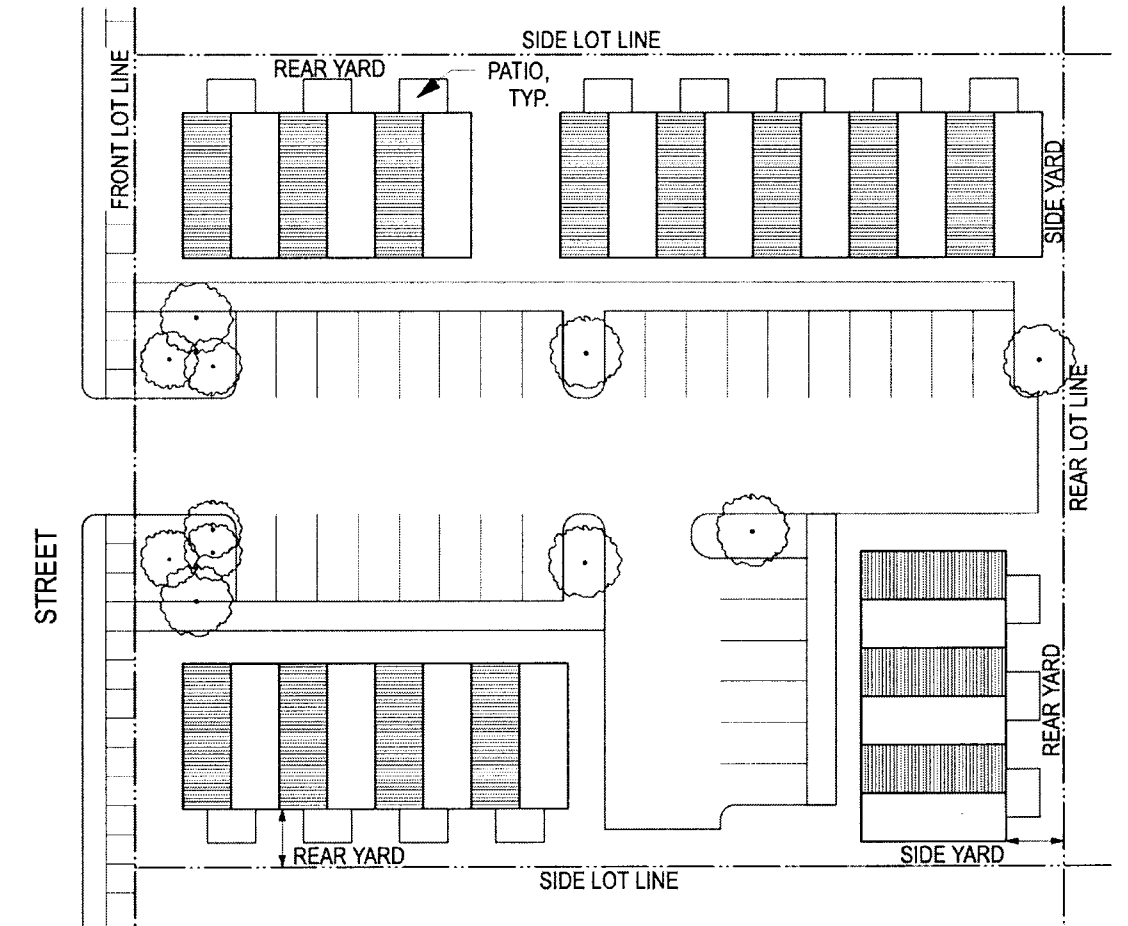


Figure 106-4. Example of a Single-Family Lot with Reversed Side and Rear Yards (Setbacks)



abcdef Proposed additions  
 abcdef Proposed deletions

Figure 106-5. Example of a Multifamily Development with Standard Yards (Setbacks)



**106-223 Mixed-Use.** A development site that includes more than one land use (e.g., residential, office, and/or retail commercial) allowed in the underlying land use district and is comprised of either a stand-alone building (vertical mixed-use), individual buildings (horizontal mixed-use) or a combination of both.

**2. SECTION 406 – BUILDING, SITING AND ARCHITECTURAL DESIGN**

**406-1 Review Standards**

The Review Authority shall evaluate all building and site plans, including detached dwelling units, for conformance to the following standards:

- 406-1.1 The development is permitted within the primary district;
- 406-1.2 The development is sited to maintain all minimum setback and lot coverage requirements; and

abcdef Proposed additions  
 abedef Proposed deletions

406-1.3 The development meets the maximum height requirements of the primary district.

#### 406-2 Additional Requirements for Type II and Type III Development

In addition to the requirements of Section 406-1, all Type II and Type III structures and site plans shall:

~~406-2.1 Have a distance between primary structures on a single lot no less than the sum of the required setbacks;~~

406-2.12 When required by the Uniform Building Code, provide facilities for the disabled pursuant to the Uniform Building Code, edition in effect at this time;

406-2.23 Incorporate design features which reflect or complement the surrounding structural and architectural character through building style and materials. Use, in open space or park settings, lines and materials (including plant materials) which blend with the natural features of the site or site background;

406-2.34 Renovate or revitalize existing structures identified within the Community Plan;

406-2.45 Arrange structures and use areas for compatibility with adjacent developments and surrounding land uses, using the following design and siting techniques:

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### 3. SECTION 413 – PARKING AND LOADING

The following off-street parking and loading and on-street parking standards shall apply in all districts. Requirements include minimum on-street parking (Section 413-5), minimum and maximum off-street parking (Section 413-6), minimum vanpool/carpool parking (Section 413-7), reductions to required off-street parking (Section 413-8), and minimum off-street drop-off and loading (Section 413-9).

#### Definitions:

Terms and definitions that apply throughout the Community Development Code are found in Section 106. Following are definitions for the terms found in Section 413:

**Parking Demand.** The total accumulation of vehicles parked on or near a given site at any associated point in time. Parking demand consists of both long-term (e.g., residents and employees) and short-term demand (e.g., visitors and/or customers) and may include on-street parking.

**Peak Hour of Parking Demand.** The hour (or hours) of the day during which the highest parking demand occurs, based on estimates from the Institute of Transportation Engineers Parking Generation Manual for the proposed land use or as determined by a parking utilization study. Peak hour data may be collected for both weekdays and weekends, depending on the type of uses involved, and may need to consider seasonal peak periods.

**Concurrent Peak Hour Uses.** Two or more land uses where the peak hour of parking demand for each use is determined to occur at or around the same time period based on estimates from the Institute of Transportation Engineers Parking Generation Manual for the proposed land use(s) or as determined by a parking utilization study.

**Off-Set Peak Hour Uses.** Two or more land uses where the peak hour of parking demand for each use is determined not to occur at or around the same time period based on estimates from the Institute of Transportation Engineers Parking Generation Manual for the proposed land use(s) or as determined by a parking utilization study.

**413-8 Reduction of Minimum Off-Street Parking**

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**413-8.3 Reduction of Minimum Off-Street Automobile Parking Based on Bicycle Parking**

Reduction of the minimum quantity of off-street automobile parking required by Section 413-6 is allowed as described in this section. All bicycle parking spaces must meet the standards of Sections 429-7, 429-8 and 429-9.

- A. Sites may reduce total minimum automobile parking space requirements by one standard or compact size space, up to 10 percent of required automobile spaces, for every two secured, long-term bicycle spaces provided per Section 429-5 B.
- B. Replacement bicycle parking spaces in existing development are exempt from permit requirements per Section 201-2.33. Alterations in parking lot requirements beyond this exemption will be subject to development review.

**4. SECTION 418 – SETBACKS**

**418-1 Obstruction in Required Yards**

Required yards shall be horizontally unobstructed except as follows:

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**418-1.2** Open balconies and unenclosed stairways more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than 4 feet and ~~such porches~~ may extend into a required front yard not more than 30 inches.

**5. SECTION 421 – FLOOD PLAIN AND DRAINAGE HAZARD AREA DEVELOPMENT**

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**421-4 Uses and Activities Permitted Through a Type I Procedure**

Unless specifically prohibited in the applicable Community Plan, the Rural/Natural Resource Plan Element, Section 422, or Clean Water Services' (CWS) "Design and Construction Standards for Sanitary Sewer and Surface Water Management" or its successor, a development permit may be approved in a flood area through a Type I procedure for the following:

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**421-4.10 Maintenance, preservation or repair of sanitary sewer facilities provided that:**

A. Work is located within the right-of-way or an existing easement;

B. The sanitary sewer facilities are not being upsized; and

C. The submittal includes the following:

- (1) An existing conditions site plan and proposed grading and restoration plan demonstrating that the ground and vegetation will be restored to the same or better condition that existed at the time of original construction;
- (2) Documentation of compliance with CWS Design and Construction standards; and
- (3) Copies of applicable U.S. Army Corps of Engineers and Oregon Department of State Lands permit applications or documentation that permits are not required.

**6. SECTION 422 – SIGNIFICANT NATURAL RESOURCES**

**422-3 Criteria for Development**

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**422-3.4** Enhancement of a degraded riparian corridor, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat permitted by Section 422-3.3 A. (7) shall meet the following:

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C. Submittal Requirements

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- (6) As an alternative to the submittal requirements identified above, Clean Water Services (CWS) may provide the applicable U.S. Army Corps of Engineers or Oregon Department of State Lands permit and/or a CWS Service Provider Letter which demonstrates compliance.

## D. Follow-up Requirements

- (1) The County shall require as a condition of approval that a detailed report by a wildlife biologist or ecologist, with map and color photographs, shall be submitted to the County by the current property owner two years after completion of the modification and again after five years. The reports shall document the current condition of the resource. These two follow-up reports shall be submitted by the County to the biologist for the Clackamas District or other applicable district for review and comment. If the approved enhancement plan has not been completed in five years, the current property owner shall submit plans to the County Department of Land Use & Transportation for rectifying any significant deficiencies. Once approved, the amended plan shall be implemented.
- (2) The County may modify or revoke the development permit for the enhancement, or take other necessary enforcement measures to ensure compliance with these standards.
- (3) As an alternative to the reporting requirements identified in D. (1) and (2) above, CWS may submit applicable U.S. Army Corps of Engineers or Oregon Department of State Lands monitoring reports two years after completion of the modification and again after five years.

**7. SECTION 430 – SPECIAL USE STANDARDS**

In addition to the requirements of Section 400 through 425, the following special use standards are provided for specific uses. Additional or amended special use standards that are applicable in the North Bethany Subarea of the Bethany Community Plan are located in Section 390, North Bethany Subarea Overlay District.

**430-1 Accessory Uses and Structure**

Accessory uses and structures support and are subordinate to the use of a site. Accessory buildings and structures shall serve, primarily, those persons regularly and customarily involved with the use and include buildings and structures customarily incidental to a permitted use located on the same lot. Uses identified elsewhere in this Code are not accessory uses.

## 430-1.1 Residential:

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## B. Development Standards:

No accessory use or structure shall be established prior to the primary use. Detached accessory buildings shall comply with the following, except as modified by other Sections of the Code.

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- (3) Buildings less than 120 square feet ~~that are located six (6) feet or more from the primary building may~~ shall be located within at least 3 feet of a

from the side or rear property line, (except a street side yard,) and except  
as required by (5) below;

- (4) Buildings ~~greater than or equal to~~ 120 square feet or larger shall meet the setback requirements of the underlying land use district except as required by (5) below;
- (5) Buildings or other structures for livestock, or buildings or other structures for poultry that are 51 square feet or larger, shall be located in a side or rear yard at least 30 feet from any property line and at least 100 feet from any existing residence, except the owner's dwelling;

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**430-80 Marijuana Facilities and Marijuana Production**

Marijuana Facilities under this Section include Retail Marijuana Facilities, Marijuana Processing Facilities, Wholesale Marijuana Facilities, and Marijuana Research and Testing Facilities subject to license requirements of the OLCC.

Marijuana Production under this Section applies to Indoor and Outdoor Marijuana Production as defined in Section 430-80.3.

430-80.1 No more than one licensee for each of the following marijuana business activities may be established on the same lot of record:

- A. Marijuana Production (Indoor and Outdoor)
- B. Marijuana Processing Facility, except for Alternating Proprietors as described in Section 430 – 80.4 C.
- C. Wholesale Marijuana Facility
- D. Retail Marijuana Facility
- E. Marijuana Research and Testing Facility

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**430-80.3 Marijuana Production**

Marijuana Production includes the manufacture, planting, cultivation, growing, or harvesting of marijuana subject to a production license requirement from the Oregon Liquor Control Commission (OLCC).

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Marijuana Production is permitted subject to the following requirements:

- A. For Outdoor Marijuana Production outside the UGB, setbacks shall be a minimum of 50 feet from all property lines.
- B. For odor control, buildings used for Indoor Marijuana Production shall be equipped with a carbon filtration system to ensure that air leaving the building

through an exhaust vent first passes through an activated carbon filter. The air filtration system shall be ~~certified designed~~ by a mechanical engineer licensed in Oregon. The air filtration system shall be maintained in working order and remain in use while marijuana activity is occurring within the building.

- C. An alternative odor control method to a carbon filtration system is permitted if the applicant submits a report by a mechanical engineer licensed in Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

#### 430-80.4 Marijuana Processing Facility

A Marijuana Processing Facility is a building and the equipment therein used for marijuana processing activities subject to a processing license requirement from the Oregon Liquor Control Commission (OLCC).

Marijuana Processing is the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid edibles, cannabinoid topicals, cannabinoid concentrates, or cannabinoid extracts. Processing does not include packaging or labeling.

Alternating Proprietor is a marijuana processor that is licensed by the OLCC as either a cannabinoid edible or cannabinoid topical processor that shares a marijuana processing facility with another cannabinoid edible, cannabinoid topical or cannabinoid concentrates processor on a shared or alternating basis.

Marijuana Processing Facilities are permitted subject to the following requirements:

- A. For odor control, buildings used for Marijuana Processing shall be equipped with a carbon filtration system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The air filtration system shall be ~~certified designed~~ by a mechanical engineer licensed in Oregon. The air filtration system shall be maintained in working order and remain in use while marijuana activity is occurring within the building.
- B. An alternative odor control method to a carbon filtration system is permitted if the applicant submits a report by a mechanical engineer licensed in Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
- C. Alternating Proprietors. A cannabinoid edible or cannabinoid topical licensee may share a marijuana processing facility with another cannabinoid edible, cannabinoid topical, or cannabinoid concentrates processor subject to the license requirements of the OLCC.
- D. A cannabinoid edible processor may only process in a facility licensed by the Oregon Department of Agriculture and subject to the endorsement and license requirements of the OLCC.



**8. SECTION 440 – NONCONFORMING USES AND STRUCTURES****440-10 Alteration or Expansion of Uses with an Access Not Conforming to the Access Requirements to Public or County Roads**

Approval of an alteration, expansion or change in occupancy of a ~~Type II~~ use on a site whose access ~~which currently~~ does not conform with the requirements of Section 501-8.5 (Access to county and public roads) shall require that the access ~~use~~ be brought into compliance with these standards when such changes create a 25 percent or greater increase in the existing Average Daily Trips (ADT). Compliance must be assured prior to the issuance of final approval or building permits for the expansion, addition or alteration.

**9. SECTION 602– GENERAL PROVISIONS****602-11 Survey and Monumentation Requirements**

## 602-11.1 Property Line Adjustments

- A. A common property line that is relocated through a property line adjustment shall be surveyed and monumented unless the affected parcels are greater than 10 acres.
- B. When required, surveys shall be filed with ~~and approved by~~ the County Surveyor after ~~prior to~~ filing and recording the necessary deeds with the Department of Assessment & Taxation Recording Division.
- C. Recorded deed numbers must be shown on the record of survey.