



# CITY OF MYRTLE CREEK

P.O. BOX 940, 207 NW PLEASANT ST., MYRTLE CREEK OR 97457  
(541) 863-3171 FAX (541) 863-6851

## MYRTLE CREEK PLANNING COMMISSION REGULAR MEETING

June 25, 2024  
5:30 PM

City Hall Council Chambers  
207 NW Pleasant Street

### **AGENDA**

#### **1. CALL TO ORDER / ROLL CALL**

Chairperson                      Angel Smith  
Commissioners                Sharon Umphlett, Cecil Earp, Bill Umphlett, Cathey Wragg

#### **2. PLEDGE OF ALLEGIANCE**

#### **3. APPROVAL OF MEETING MINUTES**

4.1      Planning Commission Minutes April 23, 2024

#### **5. PUBLIC PARTICIPATION - MATTERS OF PUBLIC CONCERN**

Any person may discuss matters of general public concern, which fall within the purview of the Planning Commission, except that matters which are subject to quasi-judicial proceedings may not be discussed under this item of the agenda.

#### **6. NEW BUSINESS**

6.1 Public Work Session HB 3395 Code Amendments

#### **7. PLANNING ACTIVITIES REPORT**

#### **8. GOOD OF THE ORDER**

#### **9. ADJOURNMENT**

#### **♣ ♣ AMERICANS WITH DISABILITIES NOTICE ♣ ♣**

As part of public policy, the City of Myrtle Creek will attempt to provide public accessibility to services, programs, and activities. If accommodation is needed to participate at this meeting, please contact the City of Myrtle Creek at 863-3171, at least 48 hours prior to the scheduled meeting time.



# **CITY OF MYRTLE CREEK**

## **Regular Meeting of the Planning Commission**

**DATE:** April 23, 2024

**PLACE:** Council Chambers, 207 NW Pleasant St, Myrtle Creek, Oregon

**PRESIDING OFFICER:** Chairman Angel Smith

**COMMISSIONERS PRESENT:** Sharon Umphlett, Bill Umphlett, Cathey Wragg,  
Tommy Earp (Had to leave for fire call and did return)

**COMMISSIONERS ABSENT:**

A quorum was present during this meeting.

**STAFF IN ATTENDANCE:** City Administrator Lonnie Rainville, City  
Recorder Joanna Bilbrey

**CALL TO ORDER:** Meeting was called to order at 5:30 p.m.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF March 26, 2024, MINUTES:**

Motion was made by Commissioner Sharon Umphlett to approve minutes from March 26, 2024. Motion was seconded by Commissioner Bill Umphlett. Discussion: No discussion took place.

Vote: Motion passed unanimously.

**PUBLIC PARTICIPATION - MATTERS OF PUBLIC CONCERN:**

No public participation.

**PUBLIC HEARING**

Public hearing script read into record for the conditional use permit request for the purposes of production and processing of marijuana at 1491 N. Myrtle Rd, Myrtle Creek, OR 97457

**Public Hearing opened at 5:36 PM.**

The applicant was not present but does have party status. No other individuals with party status were present. The City Administrator presented the staff report for the conditional use permit applications. Two conditional use permit applications were submitted, one for the production of marijuana and one for the use of a building for processing. The conditional use permit applications are to the General Manufacturing (GM) zone uses and structural standards.

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Staff recommends that the Planning Commission approve applicant's request for a Conditional Use Permit to allow for the existing structure or to allow for a greenhouse constructed to be utilized based on the findings of fact from the City of Myrtle Creek Planning Department that the request for the conditional use permits for marijuana production and marijuana processing meets the right criteria as required by MCMC 18.060.040, 18.75.130, and 18.170 and all other applicable portions of the Myrtle Creek Municipal Code and subject to all the above reference conditions/advisory statements.

**Public Hearing closed at 5:54 PM**

**Regular meeting of the Planning Commission resumed at 5:55 PM.**

**Sharon Umphlett marijuana processing seconded by Bill Umphlett**

Motion was made by Sharon Umphlett to approve the conditional use permit for a marijuana production facility on parcel addressed 1419 N. Myrtle Road Property Number R59780 and zoned general manufacturing with the conditions contained in the staff report file 2024 MC-005. Motion was seconded by Cathy Wragg. Discussion: No discussion took place.

Vote: Yes- Sharon Umphlett, Bill Umphlett, Cathey Wragg. Tommy Earp abstained. (He was on a fire call during the Public Hearing).

Motion was made by Sharon Umphlett to approve the conditional use permit for a marijuana processing facility on parcel addressed 1419 N. Myrtle Road Property Number R59780 and zoned general manufacturing file 2024 MC-006. Motion was seconded by Bill Umphlett. Discussion: No discussion took place.

Vote: Yes- Sharon Umphlett, Bill Umphlett, Cathey Wragg. Abstain-Tommy Earp abstained. (He was on a fire call during the Public Hearing).

## **PLANNING DEPARTMENT REPORT**

New home construction: Three homes on Simpson, one on Keets, and one on Springview. New home being placed across from Rays. A parcel on Springbrook Drive is getting ready to be developed. Tessia Hills Estates progress: Gosselins has gas lines, electrical, and low voltage conduit in. The water and sewer are in Phase 1. Knife River will begin the paving. Hoping to have Phase 1 wrapped up by the end of June and to have both Phase I and Phase II completed by the end of summer.

## **GOOD OF THE ORDER**

No items presented.

## **ADJOURNMENT**

Chairman Smith adjourned the meeting at 5:58 pm.

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Angel Smith, Chairman

ATTEST:

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Joanna Bilbrey  
City Recorder

### **18.10.030 Definitions.**

When used in this title, the following terms shall have the meanings herein ascribed to them:

“Access” means the place, means or way by which pedestrians or vehicles shall have adequate and usable ingress and egress to a property, use or parking space.

“Access connection” means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

“Access management” means the process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.

“Accessory dwelling” means an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.<sup>1</sup> (See MCMC [18.75.070](#) for supplemental standards for structures accessory to residential uses.)

(1) An accessory dwelling shall be permitted in any residential zone where a single-family dwelling is listed as a use, as long as lot coverage, setback and height standards of the zone can be met.

(2) A maximum of one accessory dwelling is allowed per existing, lawfully established single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).

(3) An attached or interior accessory dwelling shall not exceed a total floor area of 1,000 square feet of floor space, or 75 percent of the floor area of the dwelling to which the accessory dwelling is accessory, whichever is smaller.

However, accessory dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if it exceeds the requisite floor area limitations.

(4) The number of entrances on the street-fronting facade of either the primary or accessory dwelling shall be limited to one entrance.

(5) The materials and design of the accessory dwelling shall be of similar character to the primary dwelling.

(6) An accessory dwelling may receive all utilities via extensions of the same service lines as that of the primary dwelling or may have separate utility services from that of the primary dwelling, including separate meters for water, sewer, electric or gas.

(7) No off-street parking is required for an accessory dwelling.

“Accessory structure” means an auxiliary building or structure or portion of a principal building, the use of which is incidental, appropriate and subordinate in area, extent and purpose to that of the principal building.

“Accessway” means a walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.

“Aircraft landing field” means an area of land or water used for the landing and take-off of aircraft, and any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all buildings and facilities located thereon.

“Alley” means a public or private right-of-way not more than 20 feet in width affording only secondary means of access to abutting property.

“Alteration” means the addition to, removal of or from, or physical modification or repair of any exterior part or portion of a historic landmark.

“Alteration, structural” means to change any of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

“Amendment” means a change in the wording, context, or substances of this title or a change in the district boundaries upon the zoning map.

“Apartment” means a portion of a building which is occupied or which is intended or designed to be occupied as an independent dwelling unit and contains separate ~~housekeeping~~ housing facilities for living, sleeping, cooking, and eating. As used in this title, “apartment” refers to a secondary and accessory use of a portion of an otherwise nonresidential building although “apartment,” as it is commonly used, may refer to an individual unit within a multifamily dwelling.

“Appeal” means a means for obtaining a review or determination pursuant to the terms of this title as expressly authorized by the provisions of Chapters [18.185](#), [18.190](#) and [18.195](#) MCMC.

“Approving authority” means the person or body given authority to decide applications for administrative actions under the provisions of MCMC [18.185.160](#) (land use actions). Whenever the approving authority consists of three or more persons, the action taken by such authority may be exercised by a majority of a quorum. Upon failure of a majority to agree, the matter before the authority shall be considered denied.

“Arcade” means an indoor commercial establishment maintaining a variety of electronic and mechanical games for premises use. A nongambling enterprise intended for amusement and entertainment only.

“Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

“Automobile repair garage” means a use providing for the major repair and maintenance of motor vehicles, and includes any mechanical and body work, straightening of body parts, painting, welding, or storage of inoperable motor vehicles that are being restored to operating condition (does not include auto wrecking yard).

“Automobile service station” means a use providing for the retail sale of motor fuels, lubricating oils and vehicle accessories, and includes minor servicing and repair of motor vehicles as an accessory use, but excludes all other sales and services except the sale of minor convenience goods for service station customers as accessory and incidental to the principal operation. Uses permitted at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, tire recapping, storage of motor vehicles not in operating condition, or other work generating noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. An automobile service station is not a repair garage or a body shop.

“Automobile wrecking yard (junkyard)” means an area of land used for the storage, wrecking or sale of two or more inoperable motor vehicles, trailers, or farm equipment, or parts thereof, where such vehicles, trailers, equipment or parts are stored in the open and are not being restored to operating condition, and includes any land used for the commercial salvaging of any other goods, articles or merchandise.

“Awning” means any stationary or folding structure, permanently attached or demountable, used in conjunction with a mobile home or travel trailer for the purpose of providing outdoor shelter from sun and rain, consisting of a roof with supports and not more than one wall or storage cabinet substituting for a wall.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letter A or V.

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

“Bed and breakfast” means an accessory use to be carried on within a structure designed for and occupied as a single-family dwelling in which no more than three sleeping rooms are provided on a daily or weekly period, not to exceed seven consecutive days, for the use of travelers or transients for a charge or fee. Provision of a morning meal is customary as implied by title.

“Below-grade crawlspace” means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point.

“Bicycle facilities” is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

“Bikeway” means any road, path, or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of bikeways are:

(1) “Multi-use path” means a paved 10- to 12-foot-wide way that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other nonmotorized users. Typically classified as a Class II bikeway.

(2) “Bike lane” means a four- to six-foot-wide portion of the roadway that has been designated by permanent striping and pavement markings for the exclusive use of bicycles. Typically classified as a Class I bikeway.

(3) “Shoulder bikeway” means the paved shoulder of a roadway that is four feet or wider, typically shared with pedestrians in rural areas.

Typically classified as a Class III or Class IIIs bikeway.

(4) “Shared road bikeway” means a travel lane that is shared by bicyclists and motor vehicles. Typically classified as a Class III or Class IIIs bikeway.

(5) “Trail” means an unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians. Typically classified as a Class I bikeway.

“Bluff” means a land form having a slope in excess of 30 percent of any adjacent land including its associated erosion hazard area. The erosion hazard area consists of the area of the bluff and that area defined as a 30 percent slope drawn from the toe of the bluff inland.

“Boarding, lodging, or rooming house” means a building where lodging, with or without meals, for five or more persons but not more than 20 persons is provided for compensation and in which no provision is made for cooking in individual rooms. The terms shall not include homes for the aged, nursing homes or group care homes.



“Buffer yard” means a unit of land, together with a specified type and amount of planting thereon, and any structures which may be required between land uses to eliminate or minimize conflicts between them.

“Building” means a structure having a roof and built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. A mobile home or similar vehicle may only be considered a building if it has been certified as meeting the requirements of the building code as defined herein. Where this title requires or where special authority granted pursuant to this title requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding “and enclosed on all sides.”

“Building code” means the State of Oregon Structural Specialty Code and Fire and Life Safety Code, the Plumbing Specialty Code, the Mechanical Specialty Code, the Electrical Specialty Code and any additional codes and standards as adopted and administered by the city of Myrtle Creek.

“Building construction area” means the total area of a site affected by development; includes areas of lot coverage, roads, access drives, trails, utility locations, etc.

“Building height” means the vertical distance from the finished grade at the front of the building to the highest point of the building. (See Chapter [18.145](#) MCMC for exceptions.)

“Building line” means a line on a lot, generally parallel to a lot line or road right-of-way line, which is located a sufficient distance therefrom to provide minimum yards required by this title. The building line delimits the area in which structures (from four feet above the ground upward) are permitted subject to all applicable provisions of this title.

“Building, principal or main” means a structure in which is conducted the primary use of the lot on which the structure is located.

“Cabana” means a stationary, lightweight structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home to provide additional living space.

“Caretaker’s residence” means an attached or detached single-family dwelling unit which is accessory to a permitted commercial or industrial use and which is located on the same parcel as the principal use. (See MCMC [18.75.100](#).)

“Carport” means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering not more than two vehicles.

“Cemetery” means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes. Does not include crematorium.

“Church” means a building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which is maintained and controlled by a religious body organized to sustain public worship.

“Clinic” means single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths and other members of the healing arts for the treatment and examination of out-patients, including a dispensary in each building to handle merchandise of a nature customarily prescribed by occupants in connection with their practices.

“Club” or “lodge” means buildings and facilities, privately owned or operated for a social, educational or recreational purpose, to which membership is required for participation, and which are not operated primarily for profit nor to render a service which is customarily carried on as a business. A club does not include a public rehabilitation facility of any kind.

“Common open space” means an area within a development designed and intended for the use and enjoyment of all residents of the development or for the use and enjoyment of the public in general.

“Community center or building” means buildings and facilities owned and operated by a governmental agency or nonprofit community organization providing for assembly of persons for cultural, recreational or educational purposes and whose membership is open to all residents of the community.

“Comprehensive plan” means a generalized, coordinated land use map and policy statement of the governing body that interrelates all functional and natural systems and activities relating to the use of lands, including, but not limited to, sewer and water systems, recreational facilities, natural resources, and air and water quality management programs. The comprehensive plan is the public’s conclusions about the development and conservation of the area, adopted by the city council and agreed to by all affected governmental units. It is the only all-inclusive plan for a given geographic area. The plan is the basis for other public implementation actions, such as zoning and subdivision decisions.

“Conditional uses” are those uses which have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At that time, a review (pursuant to the permit procedures contained in Chapter [18.170](#) MCMC) is conducted which determines whether the proposed use should be permitted by weighing public need for, and benefit to be derived from, the use against the locating impact which it may cause.

Condominium. “Property” or “condominiums” means the land, whether leasehold or in fee simple and whether contiguous or noncontiguous, all buildings, improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto, which are submitted according to the provisions of ORS [100.005](#) to [100.910](#) and [100.990](#).

“Contiguous lots” means two or more lots having at least one common boundary line.

“Convenience store” means a retail business which sells groceries and products required on a frequently recurring basis to persons within a residential area. Such uses are commonly highway oriented facilities and usually involve late hours of operation which often generate excessive litter, traffic, noise and other neighborhood concerns.

“Cottage cluster” means a grouping of no fewer than four detached housing units per acre with a footprint of no less than 900 square feet each and include a common courtyard.

“Crematorium” means a furnace for cremating; also an establishment containing such a furnace.

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

“Cross access” means a service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

“Day care facility” means any institution or establishment, including family day care home, in which are commonly received at one time children under the age of 15 years for the purpose of being given board, care, or training apart from their parents or guardians during a part of the 24 hours of the day, with or without compensation, but not including any (1) facility providing care that is primarily education, unless provided to a preschool child for more than four hours a day; (2) facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music, or religion; and (3) a facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

“Density” means the number of dwelling units to be contained within a specified land area as set forth in the comprehensive plan.

“Development” means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard. Also includes the dividing of land for the purpose of development.

“Dividing land” means the process of separating a parcel of land or a lot into a number of lots or parcels by partitioning. The dividing has occurred when an approved plat or map has been filed.

Duplex. See “Dwelling, two-family.” means a building designed or used exclusively for the occupancy of two families living independently of each other and having separate housing facilities for each family, and each unit having separate access.

“Dwelling” means a structure intended for lawful residential purpose and built or placed in accordance with all applicable laws, ordinances, codes and rules, but excluding hotels and motels.

“Dwelling, multiple-family” means a building designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family, with the number of families in residence not exceeding the number of dwelling units provided.

“Dwelling, single-family” means a detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family (see “Family”).

~~“Dwelling, two family (duplex)” means a building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family, and each unit having separate access.~~

“Dwelling unit” means one or more habitable rooms which are occupied or which are intended or designed to be occupied by one family and its resident domestic employees with housekeeping housing facilities for sleeping, cooking, and eating.

“Easement” means authorization by a property owner of the use by another for a specified purpose of any designated part of his property.

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

“Exterior” means any portion of the outside of a structure which can be seen from a public place.

“Family” means an individual or two or more persons related by blood, marriage, adoption, or legal guardianship, living together as one ~~housekeeping~~ housing unit using one kitchen, and providing meals or lodging to no more than two additional persons (excluding servants); or a group of not more than five unrelated persons (excluding servants) living together as one housekeeping unit using one kitchen.

Fast Food Restaurant. See “Restaurant, fast food.”

“Flag lot” means a lot or parcel which has its main building area not fronting on a public street and that is connected to the street by a strip of land 25 feet or more in width.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry area from (1) the overflow of inland or tidal water; and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary/Floodway Map, and the water surface elevation at the base flood.

Floodplain. “Floodplains” may be either riverine or inland depressional area. Riverine floodplains are those areas contiguous with a lake, stream, or streambed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected 100-year flood elevation. Inland depressional floodplains are floodplains which are low points to which surrounding lands drain.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Frontage” means all property on one side of a street between intersecting or interceptive streets, or between a street and a right-of-way, waterway, end of a dead-end street or county boundary, measured along the street line. An intercepting street shall determine the boundary of the frontage on the side of the intercepted street.

“Frontage road” means a public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street.

“Functional classification” means a system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

“Garage (private)” means an accessory building or an accessory portion of the main building designed or intended to be used for the parking and storage of motor vehicles for the tenants or owners of the property and is not open for use by the general public.

“Grade (ground level)” means the average elevation of the finished ground elevation at the center of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation opposite the center of the wall shall constitute the ground elevation.

“Hedge” means a dense row of shrubs or low trees forming a fence, boundary or screen. A “sight obscuring hedge” consists of plant material which is 80 percent opaque when viewed horizontally from between two feet and 10 feet above grade and is at least five feet in height. A “solid hedge,” when used to enclose or protect, consists of an impervious row of evergreen or conifer plant materials which is marked by a compactness from the ground upward that restricts entrance or passage.

Height of Building. See “Building height.”

“Home occupation” means any lawful business, profession, occupation, or trade conducted for gain or support entirely within a dwelling unit (or a structure accessory thereto) by its inhabitants only, which use is accessory, incidental, and secondary to the use of the building for dwelling

purposes and does not change the essential residential character or appearance of such building. A home occupation is a permitted use when authorized by the provisions of Chapter [18.75](#) MCMC.

“Horticultural nursery” means property which is used for the commercial growing of fruits, flowers, vegetables or ornamental plants.

“Hospital” means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.

“Hotel” means a building containing six or more rooms used, or intended to be used, for the lodging of persons for compensation.

“Impermeable surface” means a surface which does not absorb water. It consists of all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt.

“Intensification of use” means a measure of the magnitude and negative impact of a land use on the environment and neighboring land users.

“Internal access street” means a private road entirely within a mobile home park or a recreational vehicle park, providing vehicular access to each mobile home or recreational vehicle space and accessory structures.

“Joint access” means a driveway connecting two or more contiguous sites to the public street system.

“Kennel” means any lot used for breeding or boarding four or more dogs or cats which are six months old or older.

“Kindergarten” means an activity or facility which provides education and training for preschool children and at which each class session per day is less than four hours in duration.

“Land division” means the lot or parcel of land created through the process of dividing land.

“Landmark” means a site, structure or object recognized by the city to be of particular cultural, aesthetic, educational or historic significance to its citizens and which is listed on the city of Myrtle Creek register of cultural, historic and archaeological resources.

“Livestock” means cattle, sheep, horses, goats, fowl, poultry and any fur-bearing animal bred and maintained for food, profit or other practical purposes within pastures, pens, barns, cages and hutches.

“Loading, off-street” means an off-street space or berth on the same lot with a principal building for the parking of a commercial vehicle while loading or unloading merchandise and which has direct access from a public street or alley.

“Lot” means a unit of land that is created by a subdivision of land.

“Lot area” means the total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads and easements of access to other property.

“Lot, corner” means a lot situated at the intersection of two or more streets other than an alley. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

“Lot coverage” means that percentage of the total area of a lot which is covered by the principal and accessory buildings.

“Lot depth” means the perpendicular distance measured from the mid-point of the front lot line to the opposite (usually the rear) lot line. In the case of irregular or triangular lots, the lot depth will be established by a lot depth line which is located by the intersection of the perpendicular from the front lot line mid-point and a line 10 feet in length within the lot, parallel to, and at a maximum distance from, the front lot line mid-point.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street other than an alley shall be considered frontage and yards shall be provided conforming to front yard requirements.

“Lot, interior” means a lot other than a corner lot with only one frontage on a street.

“Lot line, front” means, for an interior lot, a line separating the lot from the street; and for a corner lot, a line separating the narrowest frontage of the lot from the street or, in the case of equal frontages, the line separating the lot from the established frontage. For through lots, the front lot line shall be the line separating the narrowest frontage from the street, or, in the case of equal frontages, the line separating the lot from the established frontage. The established frontage shall be construed to be that side of the structure which faces the street or that side of the lot not having restricted access.

“Lot line, rear” means the lot line opposite and most distant from the front lot line.

“Lot line, side” means any lot line or lines not a front or rear lot line. An interior side lot line is a lot line common to more than one lot or to the lot and an alley; an exterior side lot line is a lot line common to the lot and a street other than an alley.

“Lot, through” means a lot having frontage on two parallel or approximately parallel streets other than alleys.

“Lot width” means the horizontal distance between the side lot lines, measured at right angles to the lot depth.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title found at MCMC [18.70.180](#)(1)(b).

“Mall” means: (1) a public area often set with shade trees and designed as a promenade or as a pedestrian walk; (2) an open or covered passageway or concourse providing access to a row of stores and closed permanently or at stated times to motor vehicles; or (3) a complex of shops with associated passageways and parking spaces.

“Manufactured home” means a premanufactured structure designed to be transported in one or more sections and capable of being used for human habitation or for business, commercial or office purposes; and is designed for use with or without a permanent foundation. The term “manufactured home” does not include a “recreational vehicle.” For other purposes of this title, the terms “manufactured home” and “mobile home” do not include park trailers, travel trailers, and tent trailers. A manufactured home may be used as a permanent dwelling only when placed in accordance with the standards established for manufactured homes as set forth in Chapter [18.115](#) MCMC, or if the manufactured home has been certified as meeting standards specified for site built structures contained in the Uniform Building Code.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (See Chapter [18.120](#) MCMC for approval procedure and park design standards.)

“Marijuana processor (medical)” means a person who processes marijuana in accordance with Oregon Laws 2015, Chapter 614 for medicinal purposes pursuant to ORS [475.300](#) through [475.346](#).

“Marijuana processor (recreational)” means a person who processes marijuana in accordance with Oregon Laws 2015, Chapter 614 for recreational purposes.

“Marijuana producer” means a person who produces marijuana in accordance with Oregon Laws 2015, Chapter 614.

“Marijuana retailer” means a person who sells marijuana items to a consumer in accordance with Oregon Laws 2015, Chapter 614.

“Marijuana wholesaler” means a person who purchases marijuana items for resale to a person other than a consumer in accordance with Oregon Laws 2015, Chapter 614.

“Medical marijuana dispensary” means any facility or operation designed, intended or used for purposes of delivering, dispensing, or transferring marijuana to Oregon Medical Marijuana Registry identification card holders pursuant to ORS [475.300](#) through [475.346](#).



Middle housing means in-between housing — in-between single-family houses and larger multi-family buildings. Middle housing can include townhouses, duplexes, triplex, quadplex, cottage cluster, and ADUs. This type of housing is generally built at the same scale (size, height, setbacks) as single-family homes, so it feels integrated into the neighborhood.

“Mobile home space” means that portion of the mobile home park that is for the exclusive use of the occupants of one mobile home and on which the mobile home is affixed. The mobile home space shall be exclusive of space provided for the common use of tenants, such as roadways, guest parking, walkways, areas for recreation purposes and other areas and structures intended for common use.

“Motel” means an individual building or group of attached or detached buildings on the same lot containing guest units, which building or group is used, or intended to be used, primarily for the temporary lodging and accommodation of transient travelers for a charge or fee.

“Motor home (RV)” means a motor vehicle that is reconstructed, permanently altered, or originally designed to provide facilities for human habitation or a vehicle that has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle.

“New construction” means structures for which “start of construction,” as defined herein, commenced on or after the effective date of the ordinance codified in this title.

“Nonconforming use or structure” means any land use or structure legally established prior to the effective date of the ordinance codified in this title or subsequent amendment to it which would not be permitted by or is not in full compliance with the regulations of this title. (See Chapter [18.140](#) MCMC.)

“Nursery school” or “preschool” means an activity or facility providing care that is primarily educational to five or more preschool children not residents therein for a period or periods not exceeding four hours.

“Nursing home” or “convalescent home” means any home, place, or institution which operates and maintains facilities providing convalescent or nursing care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner.

“Occupancy” means the purpose for which a building, or part thereof, is used or intended to be used.

“Occupancy, change of” means a change in the character of occupancies or use of any building. For the purposes of this title, a change in the building code occupancy classification shall be considered a change in the character of use.

“Open space” means natural areas of undisturbed vegetation or areas replanted with vegetation after construction; lawns and garden plots for cultivation by residents; recreational areas designed for specific, active recreational uses such as tot lots, tennis courts, ball fields, and similar uses; and/or greenways. Physical structures may be allowed only as minor, incidental accessories to the open space use.

“Owner” means the person who is owner of record of real property as shown on the latest tax roll or deed records of Douglas County, or a person who is purchasing a parcel of property under recorded contract.

“Parcel” means a unit of land that is created by a partitioning of land.

“Parking area or parking structure (public)” means a structure or an open area, other than a public street or an alley, designed or used for the temporary parking of vehicles and available for public use, whether free, for compensation, or as an accommodation to customers or clients.

“Parking space, off-street” means space for the temporary parking of a vehicle which has access from but is located off any public right-of-way and which is adequate in size for the parking of a standard sized automotive vehicle in accordance with the design standards contained in this title. (Includes room to get out on either side of the vehicle and adequate maneuvering room.)

Party. The following persons or entities only, who file a timely statement or request for hearing as provided by general provisions of this title, are hereby defined as a “party”:

- (1) The applicant and all owners or contract purchasers of record, as shown in the files of the Douglas County assessor’s office, of the property which is the subject of the application.
- (2) All property owners of record, as provided in subsection (1) of this definition, within 150 feet of the property which is the subject of the application.
- (3) Any affected unit of local government or state or federal agency which has entered into an agreement with the city to coordinate planning efforts and to receive notices of land use actions.
- (4) Any other person or entity, whether or not a timely statement or request is made, may be recognized at the hearing if the person or entity is found by the presiding officer to be specially, personally, or adversely affected or aggrieved in the subject matter.

“Patron area” means an area within a retail store or business or manufacturing facility which is open to, and available for, customer use.

“Pedestrian facilities” is a general term denoting improvements and provisions made to accommodate or encourage walking, including walkways, accessways, and crosswalks.

“Personal service” means a business which is neither the practice of a profession nor dealing primarily with the sale of products as stock in trade on the premises.

“Pharmacy” means a dispensary for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts to handle merchandise primarily of a nature customarily prescribed.

“Planned development” means a self-contained development for which subdivision and zoning controls are applied to the project as a whole rather than to individual lots; often contains a mixture of housing types and densities or a combination of compatible uses or uses made compatible by buffer yards or other means; and which contains a percent of gross area devoted to open space; or, in other words, a development which is planned as a single unit which allows for design flexibility from traditional siting regulations. A planned development can have the characteristics of any one of the following types or a combination of related characteristics:

(1) Residential Planned Development. A type of self-contained development designed to be used for residential purposes. Densities are calculated for the entire development usually permitting a trade-off between clustering of structures and provision of common open space.

(2) Professional Office Planned Development. A type of self-contained development designed to be used for the location of office space for clinics and other similar uses; planned, developed, managed and otherwise treated as a single unit. Often designed with attached or semi-detached buildings grouped around a landscaped area or mall and having each office face and take access from such pedestrian mall.

(3) Commercial Planned Development. A type of self-contained development designed to be used for the grouping of a variety of retail stores; planned, developed and managed as a single unit. Open areas and various other amenities are included in the design to increase compatibility. The impact, use, size and design of a commercial planned development can range from a small neighborhood convenience center to a large scale regional shopping center.

(4) Industrial Park/Planned Development. A type of self-contained development designed for the grouping of structures used for manufacturing, assembly, processing, storage and other industrial uses; often combined with wholesale offices or management offices. The industrial park is planned, developed, and managed as a single unit and often gives special consideration to off-street loading facilities which access roads and access points used to the maximum extent possible to serve the greatest number of uses. Uses permitted within the park shall conform to the district regulations unless authority is granted to mix certain uses when physical barriers or other additional buffers are provided to minimize impacts and increase compatibility.

“Prefabricated structure” means a structure whose parts are fabricated at a factory so that construction consists mainly of assembling and uniting standardized parts, such as a modular home.

“Premanufactured structure” means a structure manufactured and assembled at a factory and transported (in one or more sections) to the construction site, such as a manufactured or mobile home.

“Processing” means the application of labor and/or machinery to change materials from one form to another.

“Professional office” means an office occupied by persons providing a personal or professional service such as accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, insurance agent, real estate broker, landscape architect, practitioner of the human healing arts or other similar services.

“Projection” means eaves, cornices, platforms, porches, or any type of structure attached to the main building.

“Public building or use” means a building or use operated by a governmental agency such as school, auditorium, meeting hall, library, museum, fire station, park, playground, or community center or a substation for a public utility as defined herein.

“Public hearing” means a legal hearing in accordance with Oregon law which is open to the public; at which testimony is given concerning a specific proposal; for which individual notice is usually given to interested parties in addition to general public notice; and where procedures are followed giving all parties the opportunity to be heard and present their side of the case.

“Public improvement” means any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

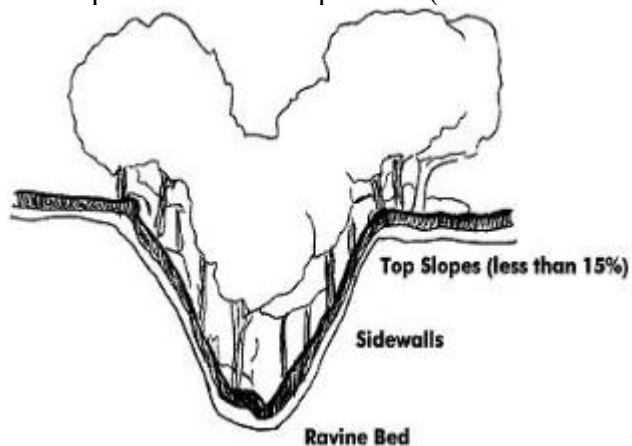
“Public utility” means any corporation, company, individual, association of individuals or its leases, trustees or receivers, that owns, operates, manages or controls all or any part of any plant or equipment for the conveyance of telegraph or telephone messages with or without wires, for the transmission of common carriers, or for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to the public.

“Quadplex” means a four-unit residential structure with a single owner, akin to a duplex or triplex. A quadplex is made up of four separate housing units incorporated into one structure, the units usually share one or two common walls

“Ramada” means a stationary structure consisting of supporting poles and a roof which extends over a mobile home, the principal purpose of which is to protect the mobile home from sun and rain.

“Ravine” means an area constituting a “young valley” which adjoins a perennial or intermittent water course. It includes the bottom lands of the ravine and the ravine side walls to a point where

the slope is less than 15 percent. (See the following illustration.)



“Ravine buffer” means the area extending 150 feet beyond the top of the ravine wall (see the illustration following the definition of ravine).

“Recreational vehicle” means a vehicle which is (1) built on a single chassis; ~~(2) 400-square feet or less when measured at the largest horizontal projection;~~ (23) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Recreational vehicle park” means a development designed primarily for transient service on which campsites are established for the parking of recreational vehicles and travel trailers for the purpose of supplying to the public a temporary location for traveling, vacationing or recreating.

“Rehabilitate” means to return a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural or cultural value.

“Rehabilitation center” means a domiciliary structure housing or intended to house persons for care or treatment for and rehabilitation from alcoholic, drug, criminal or comparable or allied social and personal problems.

“Religious quarters” means a multifamily dwelling or institution maintained and controlled by a religious body containing residential units and group facilities for members of their organization. Often includes a chapel for private use and/or reception/office area.

“Reserve strip” means a strip of land, usually one foot in width, reserved across the end or along the edge of a street or alley and terminating at the boundary of a subdivision, or a strip of land between a dedicated street of less than full width and adjacent acreage. In either case, reserved or held for future street extension or widening.

Residence. See “Dwelling.”

“Residential care facility” means a facility licensed by the Oregon Department of Human Resources which provides residential care, treatment or training for six or more individuals who need not be related, and for staff persons who need not be related to each other or any other resident of the residential facility.

“Residential home” means a facility licensed by the Oregon Department of Human Resources which provides residential care, treatment or training for not more than five individuals who need not be related, and for staff persons who need not be related to each other or any other resident of the residential facility.

“Resolution” means a document adopted by the city council which is administrative in nature, stating policy or executing a law already in effect.

“Rest home” shall mean the same as “Nursing home.”

“Restaurant” means an establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: (1) customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; and (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

“Restaurant, fast food” means an establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state for consumption (1) within the restaurant building; (2) within a motor vehicle parked on the premises; or (3) off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: Food and/or beverages are usually in edible containers or in paper, plastic, or other disposable containers.

“Retirement home” means a multifamily dwelling or institution containing individual residential units and group activity facilities that also maintains facilities for rendering board and domiciliary care for compensation to three or more persons who are of the age of 65 or more or who otherwise desire or need domiciliary care.

“Historic Review Committee” means the Myrtle Creek historic resource review committee.

“Right-of-way” means a parcel of land which is deeded, dedicated or otherwise permanently appropriated to the public for public use. Commonly refers to land which is used for streets, utilities, railroads and other public uses.

“Riparian vegetation” means plant life or total plant cover relating to, or living or located on, the bank of a natural watercourse (as a river).

“Safe and convenient” means routes that are reasonably free from hazards, and provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is generally one-quarter to one-half mile for pedestrians and three miles for bicyclists.

“School” means an institution for learning, whether public, private or parochial, meeting state of Oregon accreditation standards, but excluding trade schools.

“School, trade” means a commercially operated school for vocational and occupational training.

“Screen” means to conceal or cut off from view or to block out, separate, protect, seclude or shield in order to eliminate or minimize conflicts between uses or structures.

“Setback” means the horizontal perpendicular distance from a lot line to the closest part of a building or structure that is subject to a yard requirement. Architectural projections may intrude into a required yard as set forth in Chapter [18.145](#) MCMC.

“Sign” means any painted or fabricated display for use outdoors, including its structure, consisting of any letter(s), figure, character, mark, point, plane, design, poster, picture, stroke, stripe, line, trademark, reading matter or illuminating device which is constructed, attached, erected, fastened or manufactured in any manner whatsoever to attract the public for recognized purposes to any place, subject, person, firm, corporation, public performance, article, machine or merchandise display. However, the term “sign” shall not include the flag, emblem, or insignia of a nation, government unit, school or religious group, except that such emblems shall conform to illumination standards set forth in this title and such emblems shall not be considered to include display boards or signs describing school, church, or similar activities.

“Sign area” means the entire area within a single, continuous perimeter formed by lines joined at right angles which encloses the extreme limits of such sign face, and which in no case passes through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements, lying outside and below the limits of such sign face, and not forming any integral part of the display.

“Sign, flashing” means a sign where all or part of the lights go on and off, or appear to go on and off intermittently.

“Significant element” means a particular property’s materials and features which are important in defining its historic character. Examples may include a building’s wall, cornice, window sash and frames, roof, rooms, hallways, stairs, and mantels or a site’s walkway, fences and gardens.

“Slopes, steep” means land area where the inclination of the land’s surface from horizontal is greater than 12 percent and is determined from site topographic surveys prepared in accordance with the requirements of this title.

“Start of construction” includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the

installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“State Building Code” means the combined specialty codes.

“Street” means a right-of-way which provides access to adjacent properties for vehicular and pedestrian traffic, public utilities and other such uses. The term “street” shall include such designations as highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, court, place or other such terms. A right-of-way 20 feet or less in width shall not be recognized as a street (except for an alley).

(1) “Arterial” means a thoroughfare of considerable length primarily for providing through movement to traffic, distributing it to collector streets and principal highways, while providing limited access to adjacent properties. Arterials are designed to handle large volumes of traffic.

(2) Collector. The primary function of a “collector” is to move traffic between arterials, collectors, and local streets, and to provide access to adjacent uses. Major collectors help define neighborhoods and land use patterns. Minor collectors move local traffic between minor collectors, major collectors and/or arterial streets. Property access onto minor collectors is typically allowed, while access is often limited along major collectors. Collector roads form barriers between neighborhoods and are designed for higher speeds and traffic volumes than are minor streets.

(3) Major (Necessary) Local. A “necessary local” performs the function of a regular local street, except that it provides an essential connection between otherwise isolated areas. Transit and heavy truck traffic are generally discouraged from using local streets.

(4) Local. The primary function of “local” streets is to provide access to private dwellings and businesses. Local streets should focus on serving passenger cars, bicycles, and pedestrians. Generally, local streets have two lanes and can include parking on one or both sides. Short roads that are less than 2,400 feet in length and cannot be extended may have a narrower travel way with parking on one side.

(5) “Cul-de-sac” means a short, dead-end minor street with vehicular turnaround at or near the dead end.

(6) Dead-End Street. Similar to cul-de-sac, usually longer, which may be extended, and with no turnaround at the present dead end. (New dead-end streets require temporary turnarounds.)

(7) “Alley” means a narrow street through a block primarily for vehicular service access to the back or side of properties abutting on another street.



“Structure” means that which is built or constructed. An edifice or building of any kind or any piece or work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground including a gas or liquid storage tank that is principally above ground. (See “Building.”)

“Stub-out (stub-street, street plug)” means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a single unit or contiguous units of land under a single ownership at the beginning of such year.

“Subdivision” means either an act of subdividing land or an area or tract of land subdivided for the purpose of transfer of ownership or development.

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

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

“Temporary mobile commercial vendor” means a commercial business operating within a prefabricated structure that is constructed for movement on the public highway. Such a use may locate in any commercial zone so long as (1) the structure has been reviewed by the building department; (2) the structure remains road ready (i.e., chassis, wheels, and trailer tongue attached); (3) the parking requirements of Chapter [18.90](#) MCMC have been met; and (4) the health department has licensed the vendor for goods and beverage handling. The structure shall be subject to permit renewal every six months if it was not constructed according to State Building Code.

“Temporary sign” means a temporary off-premises business sign as described in MCMC [18.85.040](#). A temporary sign also includes endorsing candidates or ballot measures, or advertising events of public interest (such as fairs, rodeos, or similar temporary activities); signs may be erected on a property, provided such signs will be removed by the property owner within 15 days following cessation of the activity for which the sign was erected.

“Townhouse” means a dwelling unit constructed in a row of two or more attached units where each dwelling unit is located on an individual lot or parcel and share at least one common wall with an adjacent unit.

Trailer Park. A term of common usage which is more properly defined as “mobile home park” or “recreational vehicle park,” whichever is applicable.

“Transportation improvement maintenance” means transportation improvements and maintenance uses permitted in any zone, including: normal operation, maintenance, repair, and preservation activities of existing transportation facilities; installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way; projects specifically identified as not requiring a land use permit; landscaping as part of a transportation facility; emergency measures necessary for the safety and protection of property; acquisition of right-of-way for public roads, highways, and other transportation improvements; and construction of a street or road as part of an approved subdivision or land partition consistent with the applicable land division ordinance.

“Travel trailer” means a type of trailer that is designed to be used on the highways, is capable of being used for human habitation, is not more than eight feet in width and is six feet or more in height. Includes tent trailer.

“Triplex” means a three-unit residential structure with a single owner, akin to a duplex or fourplex. A triplex is made up of three separate housing units incorporated into one structure, the units usually share one or two common walls.

“Use” means the purpose for which land or a building is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

“Use, accessory” means a use incidental, appropriate and subordinate to the principal use of a lot or building.

“Use, permitted” means a use expressly authorized to locate within a particular zoning district when compliance with all of the regulations applicable in the district is assured.

“Use, principal or main” means the specific primary purpose for which land is used.

Use, Temporary. A “temporary use” is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

“Utility easement” means an easement noted on a subdivision plat or partition plat for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, sewer, storm drains, power, heat or telecommunications to the public. Unless specifically requested by a public or private utility provider, the decision-making authority may not require a utility easement except for a utility easement abutting a street. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The decision-making authority may not place additional restrictions or conditions on a utility easement granted under these provisions.

“Utility facility” means a communication facility or a facility constructed for a public utility, including but not limited to: facilities for generating power on less than 10 acres; new distribution lines (gas, oil or geothermal) with a right-of-way of 50 feet or less width, or new distribution lines for electric transmission with a right-of-way of 100 feet or less width; water intakes, treatment, pumping and distribution; wastewater treatment; rural fire protection facility; utility lines, accessory facilities or structures not limited to an individual end user and not in a public right-of-way which are necessary for public service (electricity, gas, water, telephone, cable); and equipment for the production, transmission, delivery or conveyance of communications, with or without lines, including towers. These uses may be subject to limitations as specified in the applicable zoning designation. Utility facilities are locationally dependent if they must cross or be located on land to achieve reasonably direct routes or service or to meet unique geographic needs.

“Vacation rentals” means private accommodations that are rented on a short-term basis. Usually they are fully furnished apartments, condos, houses, cottages, or lodges, where guests can use the kitchen, amenities, and outdoor space (if any). Vacation rentals are seen as alternatives to traditional hotel stays, giving travelers more privacy, space, and often the feeling of a local lifestyle.

“Value” means market value or assessed value of land and/or structures as established by the Douglas County assessor.

“Variance” means a grant of relief from the requirements of this title which permits construction in a manner that would otherwise be prohibited by this title. (See Chapters [18.170](#) and [18.175](#) MCMC.)

“Vehicle” means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. A manufactured or mobile home is a vehicle except when or until permanently placed in compliance with mobile home placement permit and zoning regulations.

“Vicinity map” means a drawing or diagram, drawn to scale, showing the location of a parcel of land in relation to abutting properties, major streets and other known landmarks.

“Walkway” means a hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways.

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

“Yard” means the open space on a lot between the lot line and the building line which is unoccupied and unobstructed by structures from four feet above the ground upward.

“Yard, front” means space extending across the full width of the lot between the front building line and the front lot line.

“Yard, rear” means a yard extending across the full width of the lot between the nearest part of the buildings and the rear lot line. For an irregular or triangular lot, the rear yard shall be measured from the lot depth line established when calculating the lot depth, to the nearest part of the building to the lot depth line.

“Yard, side” means a yard between the front and rear yards measured horizontally and at right angles from the side lot line to the side building line. In the case of a corner lot, the side yard bordering the street shall extend from the front yard to the rear lot line.

“Zone” means a division of the territory of the city established by the city council and designated on the official zoning map and within which certain land use restrictions, regulations and requirements apply under the provisions of this title. [Ord. 830 § 1 (Exh. A), 2020; Ord. 807 § 1 (Exh. A), 2016; Ord. 800 § 2, 2015; Ord. 798 § 1 (Exh. A), 2015; Ord. 795, 2014; amended during 2012 recodification; Ord. 508 § 2.03.0, 1982].

## **R1 Code revision v.1**

### **18.30.010 Purpose.**

To serve as a low density residential area protected as to residential quality, value, identity, environmental privacy, light, air and outdoor space. [Ord. 508 § 3.02.0, 1982].

### **18.30.020 Intent.**

The intent of the R-1 district is to promote the development of high quality residential neighborhoods, to encourage the construction of higher income housing by retaining areas for large lot development, and to assure that development will conform to systems and facilities which support the residential quality of the area. [Ord. 508 § 3.02.1, 1982].

### **18.30.030 Permitted uses and structures.**

The following uses and structures are permitted outright:

(1) Dwelling, single-family.

~~(2)~~ Duplex

~~(3)~~ Residential home.

~~(4)~~ All uses and structures customarily accessory to permitted uses subject to the “limitations and exceptions” set forth in Chapter [18.75](#) MCMC.

(4) Child care and other home occupations (see MCMC [18.75.040](#)). [Ord. 508 § 3.02.2, 1982].

### **18.30.040 Conditional uses and structures.**

The following uses and structures and similar uses and structures are permitted as a conditional use subject to the procedures of Chapter [18.170](#) MCMC, whereupon, (1) a conditional use permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (2) a conditional use permit may be denied if the findings of fact conclude that the permit criteria cannot be met:

(1) Child day care facilities (see MCMC [18.75.050](#)).

(2) Community building.

(3) Church.

~~(4) Duplex.~~

~~(5) Golf course or driving range.~~

~~(46)~~ Home instruction classes (see MCMC [18.75.060](#)).

~~(57)~~ Planned development/residential subject to the approval criteria set forth in Chapter [18.130](#) MCMC.

~~(68)~~ Preschool/kindergarten/nursery school. [Ord. 508 § 3.02.3, 1982].

~~(7) Vacation Rental~~

## **18.30.050 Dimensional standards.**

(1) Lot Requirements.

- (a) The minimum lot size shall be 5,400 square feet.
- (b) The width of the lot at the building line shall be not less than 60 feet.
- (c) The depth of the lot shall be not less than 90 feet.
- (d) The maximum lot coverage shall be 40 percent.

(2) Yard Requirements (See Chapter [18.145](#) MCMC for Exceptions).

- (a) The minimum front yard shall be 20 feet.
- (b) The minimum side yard shall be five feet. The minimum shall be increased by one-half foot for every one foot of home height over 18 feet not to exceed a minimum side yard setback of 10 feet.
- (c) The exterior side yard abutting a street shall have a minimum side yard setback of 15 feet.
- (d) The minimum rear yard shall be 15 feet.

(3) Building Height (See Chapter [18.145](#) MCMC for Exceptions). No main building shall exceed a height of 35 feet and no accessory building shall exceed a height of 20 feet. [Ord. 841 § 1 (Exh. B), 2021; Ord. 508 § 3.02.4, 1982].

## **18.30.060 Density.**

The residential density shall be a maximum of five units per gross acre but in no case less than 5,4500 square feet per unit (net). [Ord. 508 § 3.02.5, 1982].

### **18.30.070 Development standards and review criteria.**

Notwithstanding the conditional use provisions of MCMC [18.30.040](#), any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Chapter [18.150](#) MCMC. The planning department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the planning commission or city administrator or the city administrator's designee shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Chapter [18.150](#) MCMC; and
- (3) Provide off-street parking as set forth in Chapter [18.90](#) MCMC. [Ord. 508 § 3.02.6, 1982].

## **R2 Code Revision v-1**

### **18.35.010 Purpose.**

To serve as a medium density residential area providing a transition from traditional single-family residential neighborhoods to higher density multiple-family residential development. [Ord. 508 § 3.03.0, 1982].

### **18.35.020 Intent.**

The intent of the R-2 district is to promote the development of high quality residential neighborhoods composed of a variety of housing types and price ranges commensurate with the needs and economic means of the community. [Ord. 508 § 3.03.1, 1982].

### **18.35.030 Permitted uses and structures.**

The following uses and structures are permitted outright:

(1) Apartments (as a secondary use; defined in Chapter [18.10](#) MCMC).

(2) Boarding, lodging, rooming house.

(3) Child care and other home occupations; see MCMC [18.75.040](#).

~~(4) Duplex, middle housing~~

~~(5) Dwelling, multiple-family.~~

~~(56)~~ Dwelling, single-family.

~~(67)~~ Mobile home park subject to the conditions, limitations, construction and dimensional standards specified in Chapter [18.120](#) MCMC.

~~(78)~~ Residential home.

~~(89)~~ Retirement home.

~~(910)~~ All uses and structures customarily accessory to permitted uses subject to the “limitations and exceptions” set forth in Chapter [18.75](#) MCMC. [Ord. 508 § 3.03.2, 1982].



## 18.35.040 Conditional uses and structures.

The following uses and structures and similar uses and structures are permitted as a conditional use subject to the procedures of Chapter [18.170](#) MCMC, whereupon, (1) a conditional use permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (2) a conditional use permit may be denied if the findings of fact conclude that the permit criteria cannot be met:

- (1) Child day care facilities (see MCMC [18.75.050](#)).
- (2) Church.
- (3) Community building.
- ~~(4) Golf course and driving range.~~ [Vacation Rental](#)
- (5) Home instruction classes (see MCMC [18.75.060](#)).
- (6) Nursing home/rest home/convalescent home.
- (7) Planned development/residential subject to the approval criteria set forth in Chapter [18.130](#) MCMC.
- (8) Preschool/nursery school/kindergarten.
- (9) Religious quarters. [Ord. 508 § 3.03.3, 1982].

## 18.35.050 Dimensional standards.

- (1) Lot Requirements.
  - (a) The minimum lot size shall be 5,400 square feet.
  - (b) The width of the lot at the building line shall be not less than 60 feet.
  - (c) The depth of the lot shall be not less than 90 feet.
  - (d) The maximum lot coverage shall be 50 percent.
- (2) Yard Requirements (See Chapter [18.145](#) MCMC for Exceptions).
  - (a) The minimum front yard shall be 20 feet.

(b) The minimum side yard shall be five feet. The minimum shall be increased by one-half foot for every one foot of home height over 18 feet not to exceed a minimum side yard setback of 10 feet.

(c) The exterior side yard abutting a street shall have a minimum side yard setback of 15 feet.

(d) The minimum rear yard shall be 15 feet.

(3) Building Height (See Chapter [18.145](#) MCMC for Exceptions). In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of 20 feet. [Ord. 841 § 1 (Exh. C), 2021; Ord. 508 § 3.03.4, 1982].

### **18.35.060 Density.**

The residential density shall be a maximum of 10 units per gross acre but in no case less than 3,000 square feet per unit. [Ord. 508 § 3.03.5, 1982].

### **18.35.070 Development standards and review criteria.**

Notwithstanding the conditional use provisions of MCMC [18.35.040](#), any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

(1) Be reviewed in accordance with the site review criteria contained in Chapter [18.150](#) MCMC. The planning department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the planning commission or city administrator or the city administrator's designee shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and

(2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Chapter [18.150](#) MCMC; and

(3) Provide off-street parking as set forth in Chapter [18.90](#) MCMC. [Ord. 508 § 3.03.6, 1982].

## **R3 Code Revisions v-1**

### **18.40.010 Purpose.**

To serve as a high density, general residential district allowing a large variety of housing types together with certain nonresidential uses that are without conflict. [Ord. 508 § 3.04.0, 1982].

### **18.40.020 Intent.**

The intent of the R-3 district is to provide adequate amounts of high density residential development within appropriate areas of the presently developed city and to provide for the location of professional service activities which, in accordance with the comprehensive plan, are considered compatible with high density residential areas. [Ord. 508 § 3.04.1, 1982].

### **18.40.030 Permitted uses and structures.**

The following uses and structures are permitted outright:

- (1) Apartments (as a secondary use as defined in Chapter [18.10](#) MCMC).
- (2) Boarding, lodging, rooming house.
- (3) Child care and other home occupations (see MCMC [18.75.040](#)).
- (4) Child day care facilities (see MCMC [18.75.050](#)).
- (5) ~~Duplex.~~ [Middle housing](#)
- (6) Dwelling, multiple-family.
- (7) Dwelling, single-family.
- (8) Nursing home/rest home/convalescent home.
- (9) Preschool/nursery school/kindergarten.
- (10) Religious quarters.
- (11) Residential home.

(12) Retirement home.

(13) All uses and structures customarily accessory to permitted uses subject to the “limitations and exceptions” as set forth in Chapter [18.75](#) MCMC. [Ord. 508 § 3.04.2, 1982].

## **18.40.040 Conditional uses and structures.**

The following uses and structures and similar uses and structures are permitted as a conditional use subject to the procedures of Chapter [18.170](#) MCMC, whereupon, (1) a conditional use permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (2) a conditional use permit may be denied if the findings of fact conclude that the permit criteria cannot be met:

(1) Audio-visual or recording studio.

(2) Beauty or barber shop.

(3) Bed and breakfast.

(4) Bicycle sales and repair shop.

(5) Church.

(6) Community building.

(7) Locksmith.

(8) Mailing/addressing service without fleet vehicle storage.

(9) Mobile home park subject to the approval criteria set forth in Chapter [18.120](#) MCMC.

(10) Philanthropic or eleemosynary institution.

(11) Planned development/professional office subject to the approval criteria set forth in Chapter [18.130](#) MCMC.

(12) Planned development/residential subject to the approval criteria set forth in Chapter [18.130](#) MCMC.

(13) Professional offices.

(14) Schools, business and trade (which are similar to uses permitted outright or conditionally, and which are conducted wholly within an enclosed building).

(15) Stenographic service/notary public.

(16) Studio (including music, dancing, art, crafts, health or photography).

(17) Telephone answering service.

(18) Vacation rental

(1~~9~~8) Other similar uses and structures. [Ord. 508 § 3.04.3, 1982].

## **18.40.050 Dimensional standards.**

(1) Lot Requirements.

(a) The minimum lot size shall be 5,400 square feet.

(b) The width of the lot at the building line shall be not less than 60 feet.

(c) The depth of the lot shall be not less than 90 feet.

(d) The maximum lot coverage shall be 60 percent.

(2) Yard Requirements (See Chapter [18.145](#) MCMC for Exceptions).

(a) The minimum front yard shall be 20 feet.

(b) The minimum side yard shall be five feet. The minimum shall be increased by one-half foot for every one foot of home height over 18 feet not to exceed a minimum side yard setback of 10 feet. Buildings with more than two floors will be required to have an additional five feet of side yard setback for each additional floor.

(c) The exterior side yard abutting a street shall have a minimum side yard setback of 15 feet.

(d) The minimum rear yard shall be 15 feet for a single- or two-story structure. Structures more than two stories will require an additional five feet of rear yard setback per story.

(3) Building Height (See Chapter [18.145](#) MCMC for Exceptions). In residential districts, no main building shall exceed a height of 35 feet for a one- or two-story structure. Building heights for structures with more than two stories will be reviewed by the city engineer as a part of planned development. A multifamily structure will have a maximum of four stories. No accessory building shall exceed a height of 20 feet; provided, however, that accessory structures approved through the conditional use permit provisions may be built to a height of 24 feet. [Ord. 841 § 1 (Exh. D), 2021; Ord. 508 § 3.04.4, 1982].

## **18.40.060 Density.**

The residential density shall be a maximum of 25 units per gross acre but in no case less than 1,300 square feet per unit (net). [Ord. 508 § 3.04.5, 1982].

## **18.40.070 Development standards and review criteria.**

Notwithstanding the conditional use provisions of MCMC [18.40.040](#), any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Chapter [18.150](#) MCMC. The planning department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the planning commission or city administrator or the city administrator's designee shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Chapter [18.150](#) MCMC; and
- (3) Provide off-street parking as set forth in Chapter [18.90](#) MCMC. [Ord. 508 § 3.04.6, 1982].

## **RH Code Revision v-1**

### **18.25.010 Purpose.**

To serve as a low density residential district which is similar to the purpose and intent of the R-1 district but where it is recognized that densities should vary according to location and topography. [Ord. 508 § 3.01.0, 1982].

### **18.25.020 Intent.**

The intent of the residential hillside district is to maintain and enhance the visual and physical identity of the hills as well as native geologic conditions and to identify areas of potential natural hazards due to soil conditions and/or slope. [Ord. 508 § 3.01.1, 1982].

### **18.25.030 Objective.**

The approach set forth in the residential hillside district regulations takes a larger than lot-by-lot perspective in regulating environmental degradation. The objective is to permit maximum development while, at the same time, protecting resources by requiring a site capacity rather than a lot capacity analysis of developmental constraints. The site capacity calculation uses the open space ratio as a standard to ensure protection of the natural environment in a dependable and consistent fashion. In addition, developmental limits are specified on a resource-by-resource basis. For example, no disturbance of a very unstable or rare resource is permitted, whereas some level of disturbance of a less sensitive feature may be allowed. In summation, the residential hillside district regulations endeavor to:

- (1) Provide site and design standards intended to minimize impacts in hazardous areas;
- (2) Provide review procedures intended to preserve the environmental quality of the area; and
- (3) Encourage clustered development and a variety of housing types to better utilize lands with topographic constraints. [Ord. 508 § 3.01.2, 1982].

### **18.25.040 Designation of slope hazard area.**

(1) Properties classified as residential hillside by the provisions of this title are recognized as containing areas where slope may be a development factor. The soil series survey and the topography information compiled for the natural features element of the comprehensive plan (support document) and records of known steep slopes are the basis for establishing the R-H district boundaries. Because the general mapping and studies prepared for the comprehensive

plan are not intended for development purposes, detailed information for individual parcels or ownerships shall be submitted with each application for development.

(2) The city engineer is hereby designated to review all applications for development in the R-H district to identify the slope hazard and to determine the acreage of land with development constraints to implement the site capacity calculation of MCMC [18.25.090](#). The city engineer shall have the authority to require a site investigation report (as described in MCMC [18.150.040](#)) to be submitted with an application when, in his professional judgment, the site contains areas of potential hazard likely to be affected by the proposed development, except that a site investigation report is specifically required for all building sites containing areas of greater than 25 percent slope or identified mass movement hazard areas.

(3) The initial review of an application may provide information calling for an adjustment of the R-H district boundaries for an individual parcel. Property which is zoned R-H, but where slope does not appear to be a development factor, may be corrected legislatively to R-1 (as provided by MCMC [18.20.040](#)(1)) if all of the following circumstances exist:

(a) All slopes within the building construction site are less than 12 percent;

(b) The natural development constraints listed in Step 2 of MCMC [18.25.090](#) total less than six percent of the site area; and

(c) The property is contiguous to an R-1 district or consists of five or more contiguous acres. [Ord. 508 § 3.01.3, 1982].

## **18.25.050 Permitted uses and structures.**

The following uses and structures and similar uses and structures are permitted outright upon site review approval:

(1) Dwelling, single-family.

~~(2)~~ Duplex

~~(3)~~ Residential home.

~~(4)~~ All uses and structures customarily accessory to permitted uses subject to the "limitations and exceptions" set forth in Chapter [18.75](#) MCMC. [Ord. 508 § 3.01.4, 1982].

## **18.25.060 Conditional uses and structures.**

The following uses and structures and similar uses and structures may be permitted as a conditional use subject to the procedures of Chapter [18.170](#) MCMC, whereupon, (1) a conditional use permit may be granted when the criteria for approval are met or can be met by



observance of conditions; or (2) a conditional use permit may be denied if the findings of fact conclude that the permit criteria cannot be met:

- (1) Child day care facilities (see MCMC [18.75.050](#)).
- (2) Church.
- (3) Community building.
- (4) Duplex.
- (5) Home instruction classes (see MCMC [18.75.060](#)).
- (6) Planned development/residential (subject to the approval criteria set forth in Chapter [18.130](#) MCMC).
- (7) Preschool/kindergarten/nursery school. [Ord. 508 § 3.01.5, 1982].

(8) Vacation rental

## **18.25.070 Dimensional standards.**

### **(1) Lot Requirements.**

- (a) In the residential hillside district the minimum lot size shall be determined by the site capacity calculation as described in MCMC [18.25.090](#) and the site investigation as described in MCMC [18.150.040](#), but shall not be less than the size requirements specified in subsections (1)(b) through (e) of this section.
- (b) Lot size shall be a minimum of 5,400 square feet.
- (c) The width of the lot at the building line shall be not less than 60 feet.
- (d) The depth of the lot shall be not less than 90 feet.
- (e) The maximum lot coverage shall be 40 percent.

### **(2) Yard Setback Requirements (See MCMC [18.145.010](#)).**

- (a) The minimum front yard setback shall be 20 feet.
- (b) The minimum interior side yard setback shall be five feet; however, the minimum shall be increased by one-half foot for every one foot of home height over 18 feet, not to exceed a minimum side yard setback of 10 feet.

(c) The exterior side yard abutting a street shall have a minimum side yard setback of 15 feet.

(d) The minimum rear yard setback shall be 15 feet.

(3) Building Height (See Chapter [18.145](#) MCMC for Exceptions).

(a) Except as provided by subsection (3)(b) of this section, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of 20 feet.

(b) Where building height will obscure vision from the main floor of other buildings in the area, the maximum building height shall be 20 feet or as otherwise designated by the planning commission in order to retain visibility from windows facing the front yard for a minimum of 45 degrees in each direction. The provisions of this subsection do not apply to the relationship between buildings that are all part of a single development. [Ord. 841 § 1 (Exh. A), 2021; Ord. 508 § 3.01.6, 1982].

## **18.25.080 Density factor.**

Elsewhere in this title, residential land use intensity is expressed as “gross density” or “number of units per gross acre”; the regulations of the R-H district are based on the use of a “density factor” which applies only to buildable land and results in a determination of site capacity. Therefore, the intensity of use of any piece of buildable land within the district is held constant, although the gross density may vary depending on the characteristics of the individual property. The reason for this is that the “gross density” cannot accommodate variations in the physical site. The “density factor” is a direct measurement of the impact of a given development on road systems, community facilities, schools and services. The residential hillside “maximum density factor” is 6.88. This is comparable to a “gross density” of four units per acre when calculated for a site which is free of development constraints. [Ord. 508 § 3.01.7, 1982].