

**WILSONVILLE CODE
PLANNING AND LAND DEVELOPMENT**

**CHAPTER 4
SECTIONS 4.000 – 4.035
ADMINISTRATION**

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WILSONVILLE CODE
CHAPTER 4 PLANNING
PLANNING AND LAND DEVELOPMENT ORDINANCE

ADMINISTRATION

Section 4.000. Administration - Purpose and Title.

- (.01) Chapter 4 of this Code is enacted for the purpose of promoting the general public welfare by ensuring procedural due process in the administration and enforcement of the City's Comprehensive Plan, Zoning, Design Review, Land Division, and Development Standards.
- (.02) This ordinance shall be known as the Planning and Land Development Ordinance. It shall include those ordinances familiarly referred to as the Zoning Ordinance, Subdivision Ordinance, Sign Ordinance, Tree Preservation Ordinance, Development Code, etc.

Section 4.001 Definitions.

In addition to the definitions set forth in Section 4.001, below, for the purpose of this Chapter, the following terms are hereby defined. The word "occupy" includes premises designed or intended to be occupied. The word "shall" is always mandatory. All other words shall have the following respective meanings, unless the context otherwise requires:

- 1. Abutting: See Adjoining.
- 2. Access, Vehicular: The designed location of ingress and egress, where vehicles enter or leave property.
- 3. Access, Pedestrian: The designed location of ingress and egress, where pedestrians enter or leave property.
- 4. Access Control Restriction: A type of access restriction that involves establishing a reserve area adjacent to and paralleling a half street improvement, or across the end of a street that is to be extended in the future, to ensure proper participation by adjoining properties in completion of the required street improvements. See Street, Half. [Amended by Ord. #719, 6/17/13]
- 5. Access Drive: A private travel lane primarily used as a means of approach for vehicles.
- 6. Accessory Building or Use: A subordinate building or use, the function of which is clearly incidental to that of the main building or use on the same lot. An accessory use may be located on a lot adjoining that of the main use if approved for this purpose through the Administrative Review procedures of Section 4.030.

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7. Accessory Dwelling Unit: A dwelling unit of not more than 800 square feet on the same lot as a single family dwelling, and being of substantially the same exterior design as that single family dwelling, whether attached or detached. [Amended by Ord. 677, 3/1/10]
8. Address Overlay Zone: Distinct areas within the Villebois Village Center where additional information is provided for the definition of architectural character and community elements. [Added by Ord. No. 595, 12/5/05.]
9. Adjacent: See adjoining.
10. Adjoining: Contiguous or abutting exclusive of street width. It shall include the terms adjacent, abutting or contiguous.
11. Agriculture: The use of land larger than one acre for the primary purpose of deriving income from growing plants on land including, but not limited to, land used principally for the production of crops, land used for orchards or production of fruit, but not including land used primarily for another use and incidentally for growing plants, crops, or fruit.
12. Alley: A public or private way which includes a roadway used to provide vehicular ingress and egress to the back or side of properties otherwise abutting on a street, private drive, or shared common area. An alley typically has a width of no more than twenty (20) feet.
13. Alteration, Structural: Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.
14. Ancillary Telecommunication Facilities: The structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, equipment housing structure, footings and foundations, and ventilation or other electrical or mechanical equipment. [Added by Ord. #479, 5/19/97]
15. Antenna(e): Any exterior, apparatus, electrical conductor or group of electrical conductors, the surface of which is designed for telephonic, radio or television communications by sending and/or receiving radio-frequency or electromagnetic waves, including those sent and/or received by wireless communication facilities. Antennae include the following types:
 - A. Directional or Parabolic (“panel” or “disk”) antenna, which receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
 - B. Omni-direction (“whip”) antenna, which receives and transmits signals in a 360-degree pattern.
 - C. Other, which means all other transmitting or receiving equipment not specifically described herein. Other antennae shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment. For purposes of this ordinance, the term antenna shall not include ancillary antennae, which are antennae less than 12 inches in their largest dimension and are not directly used to provide personal wireless communication services. [Added by Ord. #479, 5/19/97]

Section 4.001 Definitions.

- D. Satellite Dish antenna, which receives signals from satellites.
16. Apartment: A type of multi-family dwelling.
 17. Appeal: Means a request for a review of any land use decision or interpretation of any provision of this ordinance.
 18. Appropriate Potential Tree Height: The Appropriate Potential Tree Height (APTH) is used to delineate certain areas adjacent to the riparian corridor. The APTH is the mature average height of the appropriate tree species that does or could potentially grow on the site. The term "appropriate" is meant to limit the potential tree species to those species that provide critical riparian functions, and are appropriate and acceptable on the specific site based on such factors as public safety, property protection, zoning and other factors. The minimum APTH is fifty feet.
 19. Arborist: An arborist who is a member of the American Society of Consulting Arborists (ASCA) or is certified by the International Society of Arboriculture, or an ornamental horticulturist or urban forester who possesses equivalent credentials and experience, and who is approved by the City Planning Director.
 20. Architectural Character: The distinctive qualities of the form, features, details, color and ornamentation that comprise a style of building.
 21. Area of Limited Conflicting Uses: See Section 4.139.00
 22. 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.
 23. Area of Special Flood Hazard: Means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This is the area subject to a base flood event. Designation on FIRM maps always includes the letters A or V.
 24. Artificial Sky Glow. The brightening of the night sky attributable to human made sources of light. [Added by Ord. 649, 6/2/08]
 25. Attached Family Dwelling Units: A building or structure designed to house two (2) or more families, whether related to each other or not.
 26. Attached Wireless Communication Facility: A wireless communication facility that is affixed to an existing structure, (e.g., an existing building wall or roof, mechanical equipment, or alternative tower structure. [Added by Ord. #479, 5/19/97]
 27. Attachment: An antenna or other piece of related equipment affixed to a transmission tower. [Added by Ord. #479, 5/19/97]
 28. Accessory Dwelling Unit: A dwelling unit of not more than 600 square feet on the same lot as a single family dwelling, and being of substantially the same exterior design as that single family dwelling, whether attached or detached.
 29. 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 FIRM maps always includes the letters A or V.

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30. **Basement:** A portion of a building which has less than one-half (1/2) of its height measured from finished floor to finished ceiling above the average elevation of the adjoining grade. For areas located in a Special Flood Hazard Area, the definition of basement is any area of the building having its floor subgrade (below ground level) on all sides.
31. **Bed and Breakfast Home or Boarding House:** A building or premises used for the provision of lodging and meals, where not more than five (5) rooms are available for rent.
32. **Bikeway:** Bikeway is a general term used to describe any type of transportation facility that is designated for use by bicycles in conformance with City standards. Bikeways may or may not be within a public right-of-way and include the following:
 - A. **Bike Lane:** A bike lane facility is a type of bikeway where a section of the roadway is designated for exclusive bicycle use.
 - B. **Recreational Trail:** A recreation trail is a type of pedestrian, bicycle, or equestrian facility that is entirely separate from roadways and has unimproved, gravel, or bark dust surface.
 - C. **Shared Roadway:** A shared roadway facility is a type of bikeway where motorists and cyclists occupy the same roadway area.
 - D. **Shoulder Bikeway:** A shoulder bikeway facility is a type of bikeway where cyclists occupy the paved roadway shoulder. Shoulder bikeways are common in rural areas.
 - E. **Cycle Track:** A cycle track is a bike lane with a physical barrier between the bike and motor vehicle travel lanes, such as a curb or parking lanes. Cycle tracks must “rejoin” the motor vehicle travel lanes at signalized intersections. Cycle tracks may require a two stage left turn for bicyclists.
 - F. See also: Multipurpose Pathway or Path.
[Amended by Ord. #719, 6/17/13.]
33. **Block:** A tract of land bounded by streets, or bounded by such features as the City limits or barriers such as bodies of water or steep slopes.
34. **Block Complex:** An assemblage of buildings bounded entirely by intersecting streets so as to form a single, comprehensive group.
35. **Block Perimeter:** The outer boundary of a block.
36. **Board:** The Development Review Board established pursuant to Chapter 2 of the Wilsonville Code.
37. **Buffers or Buffering:** Distance, landscaping, walls, berms, or other measures used to separate one land use from another, and to mitigate or minimize the adverse effects of one land use on another.
38. **Build-To Line:** A line shown on a final plat or other development plan indicating that buildings are required to be built to it, rather than set back from it.
39. **Building:** Any structure built for the support, shelter or enclosure of any persons, animals, chattels, or property of any kind which requires location on the ground or is attached to something having a location on the ground.

Section 4.001 Definitions.

40. Building Façade: The exterior elevation(s) of a building; usually set parallel to the front lot line, often distinguished by elaboration of architectural characteristics.
41. Building Façade, Primary: The main exterior elevation of a building; usually associated with its primary entrance and/or street address.
42. Building Frontage Width, Minimum: A Development Standard that controls the degree of spatial definition of public open space. Described as a percentage, the Minimum Building Frontage Width is calculated as the ratio of the length of the primary building façade(s) to its corresponding lot line length, exclusive of required setbacks.
43. Building Line: A line that is adjacent to the front side of a main building parallel to the front lot line.
44. Building Official. The person holding the position of Building Official of the City of Wilsonville. [Added by Ord. 649, 6/2/08]
45. Building or Structure Height: The term 'height of building or structure' shall be deemed to mean the perpendicular distance from the average elevation of the adjoining ground to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the middle height gable between the eaves and ridge of a pitch or hip roof. If a building is divided into units by means of masonry division walls, each unit shall be considered separately in calculation for height of building.
46. Candela. The unit of luminous intensity of a lighting source emitted in a given direction. [Added by Ord. 649, 6/2/08]
47. Canopy. A roof-like covering over an area, in or under which a lighting fixture is mounted. [Added by Ord. 649, 6/2/08]
48. Category of Use: Type of use. See Mixed Use.
49. Change of Use: Within the Willamette River Greenway means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of the existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of Sections 4.500.
50. Civic: Relating to, or derived from, a city or citizen.
51. Civic Building or Place: A building or place that functions communally, such as religious, cultural, environmental or educational institutions.
52. Clear Vision Area: A standard for sight lines at intersections of streets, railways, and driveways. See section 4.125.09, Street Improvement Standards.

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53. Cluster Housing: Small lot detached single-family dwellings arranged in groups, with a courtyard(s) containing shared green space and a public access sidewalk easement.
54. Cohousing: Cohousing is an intentional community of private homes clustered around a shared space, with design features to promote frequent interaction and close relationships. Cohousing can be comprised of a single housing type or a variety of housing types, as permitted by the base zone. Applicable regulations are determined by the base zone, specific housing types involved, and applicable regulations such as master plans.
55. Commercial: Development having to do with retail, service, commercial recreation, and/or office uses. Deleted: <#>¶
56. Common Residential Areas.
- Areas shared in common by residents of buildings with three or more dwelling units, (i.e. common open space, play areas, trash receptacle areas, “common property” under a subdivision or partition declaration); and
 - Three or more open off-street stripped parking spaces, either abutting or within 10 feet of each other and not separated by a wall or other physical barrier between the two parking spaces, designated or set aside for use by the three or more dwelling units, regardless of whether the parking space is assigned for exclusive use of each dwelling unit or non-exclusively used by three or more dwelling units, and are either commonly owned or were developed for the purpose of serving the parking needs of “multiple dwellings” or multiple attached single-family dwellings, as defined in the Development Code. [Added by Ord. 649, 6/2/08]
57. Community Center: A structure for the social, cultural, and educational activities of an entire neighborhood or group of people having common rights, privileges, or interests, or living in the same place under the same laws and regulations.
58. Community Elements Book: A plan which is used to establish the type and location of community elements within the Village zone. Community elements may include lighting, site furniture, , bollards, trash receptacles, recycling receptacles, benches, bicycle racks, , and playground equipment. The Community Elements Book also includes a Street Tree Master Plan and Lighting Master Plan.
59. Community Housing: Dwellings developed as defined by ORS 426.502(2).
60. Collocation: The use or placement of two or more antenna systems or platforms by separate FCC license holders on a single support structure, transmission tower or building. [Added by Ord. #479, 5/19/97]
61. Commercial Nursery or Tree Farm. A plant or tree nursery or tree farm where trees are planted and grown on the premises for sale in the ordinary course of business, but not including commercial woodlots, or land that is designated or assessed as forest land for tax deferral purposes or managed for timber production.
62. Commercial Recreation: A planned development commercial center or complex of recreational and complimentary uses. Typical uses include miniature golf courses, bowling alleys, theaters, tennis and racquetball clubs, health spas, swim centers, pool

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halls and sports complexes. Appropriate complimentary uses would include restaurants and sporting goods stores.

63. Commercial Woodlot. A site of at least 30,000 square feet on which trees are grown for the purpose of harvesting, and which is assessed as forest land for tax deferral purposes, and which is not a part of the approved open space or landscaping of a previously approved development.
64. Commission: The Planning Commission of the City established in Chapter 2 of the Wilsonville Code.
65. Comprehensive Plan: The City of Wilsonville Comprehensive Plan (effective date June 7, 2000).
66. Conditional Use: A use allowable if processed in accordance with the procedures listed in Section 4.512 and 4.184.
67. Conference Center: A facility where the primary function is the formal gathering of large groups of people.
68. Contiguous: See Adjoining.
69. Convenience Store: A retail business that provides for the purchase of limited food and household sundries.
70. Critical Facility: Facilities for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. [Added by Ord. # 647, 4/21/08]
71. Crown Cover: The area within the drip line or perimeter of the foliage of a tree.
72. Curb Line: The line indicating the edge of the roadway within the overall right-of-way.
73. Curfew. A time each night after which certain electric illumination must be turned off or reduced in intensity. [Added by Ord. 649, 6/2/08]
74. DATELUP: An acronym for the Dammasch Area Transportation-Efficient Land Use Plan, which is the City of Wilsonville's 1997 adopted land-use plan within the Comprehensive Plan Area of Special Concern "B".
75. Design: The conceptualization of the built environment in response to specific sets of human needs and desires.
76. Design Standards, Village Center: Criteria applicable to the design and construction of development within the Village Center, to guide the selection and arrangement of building elements to achieve a minimum level of quality and consistency in the finished product.
77. Design Principles, Village Zone: The fundamental concepts that support the objectives of the Master Plan and guide the intrinsic qualities of the built environment within the Residential Village Plan District. Design Principles are implemented through conformance with the Design Standards.
78. Design Standards, Village Zone: Criteria applicable to the design and construction of development within the Village zone, to guide the selection and arrangement of

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building elements to achieve a minimum level of quality and consistency in the finished product.

79. Density: The number of residential units per acre of land.
80. Development: Any human-caused 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 located or storage of equipment or materials located within the area of special flood hazard. [Amended by Ord. # 647, 4/21/08]
81. Development Standards: Criteria established for initial planning of any change to improved or unimproved real estate that determines the relative size and arrangement of common building elements in order to achieve a certain level of quality and consistency in the built environment.
82. Diameter Breast Height (d.b.h.): A tree's diameter in inches measured by diameter tape at four and one-half (4-1/2) feet above grade. On multi-stem trees, the largest diameter stem shall be measured.
83. Director: The Planning Director as established in Section 2.190 of the Wilsonville Code. As used in this Chapter, the term "Planning Director" also applies to other staff persons or consultants specifically assigned to act on behalf of the Director.
84. Drip Line: An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter. [Amended by Ord. # 674 11/16/09]
85. Driveway Approach: A driveway connection to a public street or highway where it meets a public right-of-way. [Added by Ord. #719, 6/17/13.]
86. Duplex: Two dwelling units on a single lot, neither of which meets the definition of an accessory dwelling unit.
87. Dwelling: A building, mobile home, or manufactured home, designed for residential occupancy, but not a house trailer or recreational vehicle.
88. Dwelling, Multiple Family: Three or more attached dwelling units located on a single tax lot. In the Village zone, such use also includes stacked flats or townhouses.
89. Dwelling, Single Family: A dwelling unit designed for occupancy by one family. A single-family dwelling may be detached or attached, provided that each such unit is located on its own tax lot. A single-family dwelling may also include an accessory dwelling unit, if approved for that use as specified in this Code.
90. Dwelling Unit: A building or portion thereof providing complete housekeeping facilities for one family, including a kitchen and bathroom, but not a trailer house or other recreational vehicle.
91. Encroachment Area: See Section 4.139.00
92. Equipment Enclosures: A small structure, shelter, cabinet or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning and emergency generators. [Added by Ord. #479, 5/19/97]

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93. Essential Government Services. Services and facilities provided by a governmental unit, that are basis and inherent to the public health and welfare including, but not limited to, fire, police, water, sewer, transportation, emergency communication, and education, and governmental services and facilities in support thereof. [Added by Ord. 545, 8/19/02]
94. Exempt tree or vegetation: As used in the solar access provisions of this Code, the terms “exempt tree or exempt vegetation” refer to the full height and breadth of vegetation that has been identified by the City as “solar friendly,” and any vegetation listed as exempt on a plat, a document recorded with the plat, or a solar access permit.
95. Existing Manufactured Home Park or Subdivision: A manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations. [Added by Ord. # 647, 4/21/08]
96. Exterior Display: The outdoor exhibit of merchandise by a retail merchant.
97. Façade. The exterior wall or elevation of a building. [Added by Ord. 649, 6/2/08]
98. Family: One or two persons with or without their direct descendants and adopted children (and including domestic employees thereof) together with not more than five (5) persons not so related, living together in a room or rooms comprising a single housekeeping unit. Every additional group of five (5) or fewer persons living in such housekeeping unit shall be considered a separate family. For housing developed to implement ORS 426.508 or under the Fair Housing Amendments Act of 1988, family shall mean all persons living in a dwelling unit, regardless of relationship.
99. Feasible: Able to be accomplished, considering all aspects of preservation and proposed site development, including the cost of mitigation and relocation.
100. Fill: Any act by which earth, sand, gravel, rock, structures or any similar material is deposited, erected, placed, pulled or transported, including the conditions resulting therefrom, whether within the limits of the 100-year flood plain or not.
101. Final Development Plan: A plan that includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a land development, in the form required by Section 4.125(.18).
102. Flag Lot: A flag-shaped lot located behind another lot where the frontage on the street is only wide enough for its vehicular and pedestrian access; often found at the end of a street or adjacent to the outside corner of an L-shaped block.
103. Flood or Flooding: General and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.
104. Flood Insurance Rate Map (FIRM): The official map prepared for the City of Wilsonville on which the Federal Insurance Administration has delineated both the flood plain and the risk premium zones applicable to the community.

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105. Flood Insurance Study: The official report prepared for the City of Wilsonville by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
106. Flood Plain: Flood-prone areas as identified on the FIRM.
107. 100-Year Flood Plain: Land adjacent to a floodway that has a one percent chance of flooding in any given year, and as identified within the "A" zones of the FIRM.
108. Floodway: 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.
109. Floodway Fringe: That portion of the flood plain not contained in the floodway.
110. Floor Area: The area of the building, exclusive of porches and exterior stairs which shall extend to the exterior faces of all walls. Floor area shall include all levels within a structure, including mezzanines and additional stories above the first floor. Within a residential structure, floor area does not include garages or carports.
111. Foot Candle. The unit of density of luminous flux (lumens) incident at a point on a surface having an area of one square foot. [Added by Ord. 649, 6/2/08; amended by Ord. 688, 11/15/10]
112. Front lot line: For purposes of the solar access regulations, a lot line abutting a street. For corner lots the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 2: Front Line Lot).
113. Garage: Enclosure for the storage of vehicles.
114. Garage, private: An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.
115. Glare. Light that causes visual discomfort or disability, and the wattage and/or light distribution is excessive for the purposes for which the illumination is necessary. [Added by Ord. 649, 6/2/08]
116. Grocery Store: A retail business that sells food and household sundries.
117. Grocery Store, Specialty: A retail business that sells specialty food and specialty household sundries.
118. Habitable floor: Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".
119. Habitat-Friendly Development: A method of developing property that protects our natural resources as we grow and focuses on land development and site design that mimic natural processes. Examples include clustering development to avoid habitat, minimizing tree removal and root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, and, where feasible, reducing the amount of impervious surface created by development. [Added by Ord. # 674 11/16/09]

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120. Hardscape Permanent improvements to a site, including but not limited to, parking lots, driveways, streets, plazas, sidewalks, walkways, bikeways, abutments, stairs, ramps, and architectural features, such as fountains and sculptures. [Added by Ord. 649, 6/2/08]
121. Hearing Body: The City Council, the Development Review Board, or the Planning Commission having the authority to review an application assigned by Section 4.031, Section 4.032, and Section 4.033.
122. Heritage Tree: A tree that, due to age, size, species, quality or historic association, is considered of landmark importance to the community and has been designated as such by the City Council.
123. Home Business: A business operating from a dwelling unit that does not meet the definition of a "Home Occupation" listed below, and for which a conditional use permit has been issued by the City.
124. Home Occupation: "Home Occupation" means an occupation, profession, or craft, which is customarily incidental to or carried on in a dwelling place or premises and not one in which the use of the premises as a dwelling place is largely incidental to the business use. A home occupation is carried on by an immediate member of the family residing within the dwelling place. A home occupation shall require no structural alteration or changes to the exterior of the dwelling, and shall include no display of merchandise on the premises which can be seen from the exterior of the dwelling. Any instruction shall be limited to one pupil at a time. Noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the use shall not be of the intensity as to be detected outside of the containing structure. Traffic and parking are to be such as to give no outward appearance that a business is being conducted on the premises.
125. Hospital: A building or premises providing in-patient services that is used for human medical or surgical treatment.
126. Hospital, Animal: A building or premises for the medical or surgical treatment of domestic animals or pets, including dog, cat and veterinary hospitals.
127. Hotel, Motel, or Overnight Lodging Facility: A building which is designed or used to offer lodging, with or without meals, for compensation, for six (6) or more people.
128. House Side Shield. For fully shielded luminaires only, an internal shield designed and installed by the luminaire manufacturer that significantly attenuates candlepower in the back photometric hemisphere at all angles greater than 30 degrees relative to nadir. [Added by Ord. 649, 6/2/08]
129. Human Occupancy: For purposes of Section 4.172(.02)(C.)(4.), any structure usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof, is considered to be for human occupancy. A structure used only for storage purposes is not for "human occupancy." [Added by Ordinance No. 538, 2/21/02.]
130. IESNA. The Illuminating Engineering Society of North America (see www.iesna.com). [Added by Ord. 649, 6/2/08]
131. Impact Area: See Section 4.139.00

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132. Impervious Area: An area with minimal infiltration of surface water into the underlying soil and shall include pavement (including but not limited to concrete or asphaltic concrete surfaces), gravel roads, structures, roadways, and roofs.
133. Intensification of Use: Within the Willamette River Greenway means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of land within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this Code. Seasonal increases in gravel operations shall not be considered an intensification of use.
134. Kennel: Any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept for boarding, breeding or sales.
135. Landscaping: The term "landscaping" includes trees, grass, shrubs, flowers, water features, and garden areas, and the arrangement of paths, walkways, fountains, patios, decks, fencing, street furniture and ornamental concrete or stonework areas, earth forms such as grading, mounding and contours. The use of pervious materials is encouraged. Both native and non-native vegetation may constitute landscaping materials. This definition pertains to complete site modifications rather than just buildings. [Amended by Ord. # 674 11/16/09]
136. Landscape Lighting. Luminaires attached to structures, mounted on poles or otherwise, or at grade (luminaire not to exceed 3 feet above grade) and used solely for landscape rather than area lighting. [Added by Ord. 649, 6/2/08]
137. Legislative process: A process that leads to the adoption of rules or policies that have broad implications for a large geographic area or for the community overall.
138. Light Manufacturing: Low- to moderate-impact industrial, manufacturing, processing, and assembly uses that exhibit benign external characteristics compatible with the character and overall design of a Residential Village environment.
139. Light Source (or Lamp): The actual bulb or lamp that emits the light. [Added by Ord. 649, 6/2/08]
140. Light Trespass. Spill light that because of quantitative, directional, or spectral content causes light level at the property line that is greater than as provided on Table 4 of this Code. [Added by Ord. 649, 6/2/08]
141. Lighting Master Plan: A plan that indicates the criteria for, and general location of exterior lighting within the Village zone. See also Community Elements Book.
142. Lighting System. One or more luminaires, together with associated wires, conduits and poles that constitute the illumination system on the parcel. [Added by Ord. 649, 6/2/08]

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143. Lighting Zones. Specific allowances and limitations for lighting systems and fixtures as specified in this Ordinance. [Added by Ord. 649, 6/2/08]
144. Lot: A unit of land owned by or under the lawful control and in the lawful possession of one distinct ownership, or separated from other land by a drawing on a recorded subdivision or partition plat, for separate individual use or development.
145. Lot Area: The total horizontal area within the lot lines of a lot, excluding the driveway portion of a flag lot.
146. Lot Coverage: The area of a lot covered by all of the buildings on that lot, expressed as a percentage of the total lot area.
147. Lot Depth: The lot depth is the mean average distance between the front lot line and rear lot line of a lot measured within the lot boundaries.
148. Lot, Front: The boundary line of a lot abutting a street, other than a boundary line along a side or rear yard. If the lot does not abut a street, the narrowest boundary line shall be considered to be the front.
149. Lot, Key: A lot, the side line of which abuts the rear line of one or more adjoining lots.
150. Lot Line, Front: The boundary line of a lot abutting a street or private drive, other than a boundary line along a side or rear yard. If the lot does not abut a street or private drive, the narrowest boundary line shall be considered to be the front. In the Village zone: the case of an interior lot, the lot line separating the lot from the public space, street or private drive, other than an alley. In the case of a corner lot, the shortest lot line along a public space, street or private drive, other than an alley. The boundary line of a lot abutting a street or private drive, other than a boundary line along a side or rear yard. If the lot does not abut a street or private drive, the narrowest boundary line shall be considered to be the front. A private drive bounded on two sides by a single lot shall not be considered in determining if a lot is a through lot.
151. Lot Line, Rear: Any boundary line opposite and most distant from a front line and not intersecting a front lot line, except in the case of a corner lot.
152. Lot Line, Side: Any boundary line not a front or rear lot line.
153. Lot, Through: Any lot, except a corner lot, that abuts two or more streets or private drives other than a freeway. Private drives which are bounded by two sides by a single lot shall not be considered in determining if a lot is a through lot.
154. Lot, Width: The 'lot width' is the mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.
155. 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 ordinance.
156. Lumen. The unit of luminous flux: a measure of the amount of light emitted by a lamp. [Added by Ord. 649, 6/2/08]

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157. Luminaire (or “Light Fixture”). A complete lighting unit consisting of one or more electric lamps, the lamp holder, reflector, lens, ballast, and/or other components and accessories. [Added by Ord. 649, 6/2/08]
158. Luminance. The amount of light emitted in a given direction from a surface by the light source or by reflection from a surface. The unit is candela per square meter. [Added by Ord. 649, 6/2/08]
159. Luminous Flux. A measure of the total light output from a source, the unit being the lumen. [Added by Ord. 649, 6/2/08]
160. Major Alteration: Any change, enlargement or modification to existing site improvements or structures, or use thereof or any which substantially alters the exterior appearance or function of the site or building or increases the previous floor area by an amount equal to or greater than one-third.
161. Major Transit Stop: Transit stops that are located where two or more existing or planned routes intersect or where there are existing or planned transfer locations between transit systems, Park & Ride lots, and shopping centers and other major destinations. [Added by Ord. #719, 6/17/13.]
162. Major Transit Street: A primary corridor for transit, receiving half-hour or better service during peak traffic hours. Typically, these streets are also arterials or major collectors. [Added by Ord. #719, 6/17/13.]
163. Manufactured Dwelling: Includes residential trailer, mobile home, mobile house, trailer and manufactured home. This definition does not include any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.
164. Manufactured Home: A structure built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities, for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, and was constructed in accordance with Federal Manufactured Housing Construction and Safety Standards regulations in effect at the time of construction. [Amended, Ord. #317, 11/4/87]. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For flood insurance purposes, and City zoning standards, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles. [Amended by Ord. # 647, 4/21/08]
165. Manufactured Home or Mobile Home Park: Means a parcel (or contiguous parcels) of land divided into two or more spaces that are rented or leased for the placement of manufactured or mobile homes.
166. Manufactured Home or Mobile Home Subdivision: Means a group of three (3) or more separate lots intended for the location of manufactured or mobile homes, and which lots may be rented or sold.
167. Master Plan: See “Villebois Village Master Plan”.

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168. Master Planner: A professional team selected by the City of Wilsonville and the State of Oregon in accordance with ORS 426.508 to master plan the area prescribed in DATELUP.
169. Master Signage and Wayfinding Plan: A plan that describes the design principles and standards of public and private signage and wayfinding elements within the Village zone.
170. Mixed Solid Waste: Solid Waste that contains recoverable or recyclable materials and materials that are not capable of being recycled or recovered for further use. [Amended by Ord. # 426 - April 4, 1994]
171. Mixed Use: A development in which a site or building provides more than one type of use, such as commercial and residential
172. Mobile Home: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of the Oregon mobile home law in effect at the time of construction. [Amended by Ord. #317, 11/4/87]
173. Modular Home: A structure intended for residential use that has sleeping, cooking and plumbing facilities and is constructed off-site in compliance with the Uniform Building Code (Oregon State Structural Specialty Code) and designed to be transported to a site for installation and/or assembly of modular components to form a permanent structure. [Amended by Ord. #317, 11/4/87].
174. Multiuse Pathway or Path: A path that is separate from the roadway either in the roadway right-of-way or in an independent right-of-way. It is designed and constructed to allow for safe walking, biking, and other human-powered travel modes. [Added by Ord. #719, 6/17/13.]
175. Native: As applied to any tree or plant, this term means indigenous to the northern Willamette Valley.
176. Neighborhood: An urban sector of residential or multiple uses served by a network of pedestrian-friendly streets and alleys within approximately ¼ mile in radius. Neighborhoods are generally defined by arterial or collector streets and/or open space at their edges and include a Neighborhood Commons or park or civic use at or near their center.
177. Mounting Height. The vertical distance between the lowest part of the luminaire and the ground surface directly below the luminaire. [Added by Ord. 649, 6/2/08]
178. Multi-family housing. Buildings or structures that contains three or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes, apartment houses, condominiums, congregate residences, townhouses and similar non-transient dwellings. [Added by Ord. 649, 6/2/08, amended by Ord. 682 9/9/10]
179. Nadir. The downward direction; exactly vertical, directly below a luminaire. [Added by Ord. 649, 6/2/08]

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180. Neighborhood Center: An area of mixed-use buildings at or near the center of a neighborhood, providing nearby residents with convenient access to goods and services.
181. Neighborhood Commons: A site within a neighborhood, for use by local residents, which may include a transit shelter and waiting place for transit riders, and public space, providing a social gathering place.
182. Neighborhood Commercial: A planned development commercial center or complex of commercial uses to provide for the daily convenience, goods and services of nearby residential areas. Typical uses include grocery, hardware, and drug stores; barber and beauty stores; banks; laundry and dry cleaning; and professional offices, but exclude service stations.
183. New Construction: For purposed of flood plain management, structures for which the "start of construction" commenced on or after June 17, 2008. [Added by Ord. # 647, 4/21/08]
184. New Facility: The installation of a new transmission tower. New attachments are not new facilities. [Added by Ord. #479, 5/19/97]
185. Non-Conforming Lot: A legally created lot or parcel that does not conform in terms of area, width, depth, or other dimensions with the standards of the zone in which it is located.
186. Non-Conforming Site Conditions: A legally established site that does not conform with the landscaping, parking or other site development standards of the zone in which it is located. A site may be rendered non-conforming to development standards through a change in zoning requirements or through the acquisition of some portion of the property by a public agency. For purposes of this Code, a site for which Stage II Planned Development approval has been granted by the City, and which approval remains in effect, shall not be deemed non-conforming. [Amended by Ordinance No. 538, 2/21/02.]
187. Non-Conforming Structure: A legally established building or other structure that does not conform with the height, setback, area, lot coverage, or other standards for structures of the zone in which it is located. A structure may be rendered non-conforming through a change in zoning requirements or through the acquisition of some portion of the property by a public agency. For purposes of this Code, a structure for which Stage II Planned Development approval has been granted by the City, and which approval remains in effect, shall not be deemed non-conforming. [Amended by Ordinance No. 538, 2/21/02.]
188. Non-Conforming Use: A legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform. For purposes of this Code, a use for which or Stage II Planned Development approval has been granted by the City, and which approval remains in effect, shall not be deemed non-conforming. [Amended by Ordinance No. 538, 2/21/02.]
189. Northern lot line: The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the northern edge of such undevelopable area. If two lot

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lines have an identical angle relative to a line drawn east-west, or if the northern lot lines is less than 35 feet, then the northern lot line shall be a line 35 feet in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 3: Northern Lot Line in Section 4.137).

190. **North-south dimension:** The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 4: North-South Dimension of the Lot in Section 4.137).
191. **Office:** A use category designating buildings commonly used as a workplace for professional or government functions.
192. **Office Complex:** A planned development commercial center or complex of administrative, professional and general office uses. Typical uses include governmental, financial, architectural, medical, dental, legal, real estate, accounting, insurance and general business offices.
193. **Obtrusive Light.** Glare and light trespass. [Added by Ord. 649, 6/2/08]
194. **Office Complex - Technology.** Applies to office uses in an industrial, typically high-technology, setting, including research and development, software or hardware development, telecommunication or data manipulation operations.

Typically in an industrial campus setting, Technology-Office Complexes are expected to generate less traffic than general office uses.

Technology-Office Complex is not intended to apply to general office uses such as medical offices, real estate sales offices, or similar operations that are more appropriately the predominate uses in non-industrial areas.
195. **Official Map:** The map established by the City Council on which the plan locations, particularly of streets, are indicated with detail and exactness so as to furnish the basis for property acquisition, building restrictions, building permits, zoning or other uses, the original -of which is on file in the office of the City Recorder.
196. **Open Space:** Land that is not covered by buildings, paving , or other hard surfaces, unless such hard surfaces are part of an approved landscape plan.
197. **Open Space Area:** A specific measurement. See Section 4.125(.08), Open Space.
198. **Usable Open Space:** Open Space that serves a planned recreational, active transportation, environmental education or relaxation purpose and is of sufficient size and shape for the intended purpose. Usable open space does not include land that is an apparently remnant tract or otherwise unusable or oddly shaped area.
199. **Ornamentation:** The details of shape, texture, and color that are deliberately added to a structure for decorative effect.
200. **Outdoor Dining Area:** A space designated for commercial dining, partially bounded by building walls, screening or property lines, but open to the sky, and open on at least one side to a street or public space.
201. **Outdoor Living Area:** Outdoor recreational area intended for the use of the residents of the development. In order to be considered “outdoor living area” it must be usable and accessible by the residents of the development.

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202. Ornamental or Accent Lighting. Outdoor lighting that is installed mainly or entirely for its decorative effect or to accent an object or a feature, rather than as an aid to visibility. [Added by Ord. 649, 6/2/08]
203. Parking Facility, Commercial: A surface lot or parking structure that is operated as a business and is not integral to a specific use or uses within Villebois.
204. Parking Space: A permanently surfaced and marked area not less than nine (9) feet wide and eighteen (18) feet long, excluding paved area necessary for access, for the parking of a motor vehicle.
205. Parking Space, Accessible: A permanently surfaced and marked area meeting the standards established by ORS 447.233. Such spaces shall be appropriately reserved and signed for use by the disabled and shall be subject to any additional standards of the Americans with Disabilities Act (ADA) or other applicable provisions of local, state or federal law.
206. Parking Space, Compact: A permanently surfaced and marked area not less than seven (7) feet, six (6) inches wide and fifteen (15) feet long, excluding paved area necessary for access, for the parking of a compact motor vehicle. In order to be considered a compact parking space, it must be clearly labeled as such. [Amended by Ord. # 674 11/16/09]
207. Parking Space, Handicapped: Be designed for safe and convenient access that meets ADA and ODOT standards. All parking areas which contain ten (10) or more parking spaces, shall for every fifty (50) standard spaces, provide one ADA-accessible parking space that is constructed to building code standards, Wilsonville Code 9.000. [Amended by Ordinance No. 538, 2/21/02.]
208. Parking Space, Motorcycle: A permanently surfaced and marked area not less than four (4) feet wide and eight (8) feet long, excluding paved area necessary for access, for the parking of a compact motor vehicle. In order to be considered a motorcycle parking space, it must be clearly labeled as such.
209. Partition:
- A. "Partition" means either an act of partitioning land or an area or tract of land partitioned under the provisions of Section 4.200. As used in this Code, a land partition may be either a "major" or "minor" partition, as those terms are commonly used.
 - B. "Partition land" means to divide an area or tract of land into two or three parcels when such area or tract of land exists as a unit or contiguous units of land under single ownership. "Partition land" does not include divisions of land resulting from lien foreclosures, and divisions of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance.
210. Pathway: A pathway is a pedestrian facility that is entirely separate from the roadway and generally serves as an on-site pedestrian system for multi-family, commercial and

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industrial developments. The Americans with Disabilities Act defines a pathway as an "Exterior Accessible Route."

211. Pattern Book: An illustrative document that depicts the architectural character of a proposed development, in compliance with the Design Principles and Design Standards. See Section 4.125.15, Pattern Book.
212. Pedestrian Access: A path of travel to approach and enter a building , or open space on foot.
213. Permit (Tree cutting): Approval to remove trees according to the following categories:
 - A. Type A - Permits removal of one to three trees within a twelve (12) month period on any property.
 - B. Type B - Permits removal of four or more trees on any property (a) not subject to site development review, or b) previously approved for site development, and is c) not in a commercial woodlot.
 - C. Type C - Permits removal of trees on property under a site development application.
 - D. Type D - Permits removal of trees on a commercial woodlot.
214. Permit Grantee: Any person, including the person's successors-in-interest, whose application for a Permit has been approved, or who is acting on the permit grantee's behalf with the grantee's consent.
215. Person: Any individual or legal entity.
216. Phasing: To plan and then carry out development in stages over time. The length of time will be determined by several factors, including response to market conditions, availability and capacity of existing utilities and infrastructure, and timing of road improvement approval and funding.
217. Planning Commission: The Planning Commission of the City of Wilsonville established in Chapter 2 of the Wilsonville Code.
218. Planning Director: The Planning Director as established in Section 2.190 of the Wilsonville Code. As used in this Chapter, the term "Planning Director" also applies to other staff persons or consultants specifically assigned to act on behalf of the Planning Director.
219. Photometric Test Report. A report by an independent testing laboratory or one certified by the National Institute of Standards and Technology (NIST) describing the candela distribution, shielding type, luminance, and other characteristics of a specific luminaire. [Added by Ord. 649, 6/2/08]
220. Plat: A map, diagram, drawing, replat or other writing containing all of the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision, condominium division or land partition. A tentative plat is one that is prepared for review and consideration by the City. A final plat is one that is prepared for recordation with the County after the City has approved the tentative plat.
221. Plaza: A public space at the intersection of important streets, as illustrated and described in the Villebois Village Master Plan, for civic purposes and commercial activity.

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222. Porch: An open-air room appended to the mass of a building, with floor and roof.
223. Pre-existing Towers and Pre-existing Antennae: Any tower or antennae for which a building permit has been properly issued prior to the effective date of this ordinance. [Added by Ord. 479, 5/19/97]
224. Preliminary Development Plan: A conceptual and quantitatively accurate representation of a defined area within an approved Specific Area Plan, in the form required by Section 4.125(.18).
225. Premises: A site with or without buildings.
226. Private Drive: A private way, other than an alley, that includes a roadway.
- A. Private Access/Circulation Drive - Industrial/Commercial/Multi-family/Mixed Use: A private drive in an industrial, commercial, multi-family (including mobile home parks), or mixed-use development providing vehicular ingress and egress to the development and/or internal circulation.
 - B. Residential Private Access Drive: A private drive in a non-multi-family residential development providing primary vehicle access to no more than four (4) dwelling units, excluding accessory dwelling units. A residential private access drive provides for no through vehicle access and is not extendable. This definition does not include private alleys.
 - C. Residential Private Drive - Pre-existing: A private drive in a non-multi-family residential development approved prior to (effective date of ordinance) including those that provides vehicular access to more than four (4) dwelling units.
227. Private Way: A private area dedicated to circulation, including roadways, bikeways, paths, or utilities.
228. Professional-Type Services: A “professional-type service” shall include activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate and insurance sales.
229. Protected solar building line: A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees (see Figure 11: Soar Lot Option 2: Protected Solar Building Line in Section 4.137).
230. Protected Outdoor Space: An outdoor space that is partially protected from direct exposure to the weather by a roof, building walls, and/or other enclosures.
231. Private Way: A private area dedicated to circulation, including the roadway for private streets, bikeways, paths or utilities.
232. Public Space: An area without buildings, reserved for public use, whether owned and maintained by a public or private organization, including but not limited to, plazas, parks, natural preserves, and trails.
233. Public Way: A public area dedicated to circulation, including the roadway or street, bikeways, paths and public utilities.
234. Quasi-judicial process: A process that leads to a decision on a land use or development application involving a single property or small group of properties. (Please see the definition of Legislative Process, above.)

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235. Rainwater Management Program: Infrastructure and procedures for the collection, filtration, and conveyance of rainwater.
236. Rainwater Management System: The physical components of the Rainwater Management Program.
237. Rainwater Path: The route of movement of rainwater from building roofs and paved surfaces to the Rainwater Management System.
238. Recreational Vehicle: Means a vehicle which is:
- A. Built on a single chassis;
 - B. 400 square feet or less, when measured at the largest horizontal projection;
 - C. designed to be self-propelled or permanently towable by a light-duty truck; and
 - D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
239. Religious Institution: A building or structure, or groups of buildings or structures, such as a church, synagogue, temple or mosque, that is used for conducting organized religious services, including ceremonies, rituals, and education pertaining to a particular system of beliefs.
240. Remove or Removal: The act of removing a tree by topping, digging up or cutting down, effecting removal through damage, or causing to be removed, transplanted or destroyed.
241. Replacement Area: the mitigation area required to compensate for an encroachment into the SROZ when allowed in accordance within Section 4.139.00
242. Research and Development: Commercial and non-profit establishments primarily engaged in performing laboratory or other physical or biological, primary, basic, or applied research, development and testing. Does not include Light Manufacturing.
243. Residential Facility: As used in ORS 197, a residential facility is a residential treatment or training facility, licensed by the State of Oregon, which provides care, treatment or training for six (6) to fifteen (15) individuals, and which may also provide housing for staff persons who provide services to those individuals. For the purposes of this Code, unless inhabited by a single family, a residential facility is considered to be a form of multiple family residential development.
244. Residential Home: As used in ORS 197, a residential home is a residential treatment or training home, or adult foster home, licensed by the State of Oregon, which provides care, treatment or training for five (5) or fewer individuals, and which may also provide housing for staff persons who provide services to those individuals. For the purposes of this Code, a residential home is considered to be a form of single-family dwelling unit.
245. Residential Trailer: A structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962. [Amended by Ordinance 317, 11/4/87].
246. Residential Village Comprehensive Plan Designation: The area within which the Village zone applies, as illustrated on the Comprehensive Plan Map.

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247. Row House: One of a series of houses, often of similar or identical design, situated side by side, with or without an accessory dwelling unit or building. Within the Villebois Village Center Boundary, row houses may be attached or detached in accordance with the Village Center Architectural Standards. [Amended by Ord. # 667 8/17/09]
248. Right-of-way: The area between boundary lines of a public way.
249. Riparian Corridor: See Section 4.139.00.
250. Riparian Corridor Cross Sections: See Section 4.139.00.
251. Riparian Impact Area: See Section 4.139.00.
252. Road: Same as “Street”.
253. Roadway: The portion of a public way or street or private way developed for use by vehicular traffic.
254. Roadway, Shared: a roadway that is designed to be shared by additional users besides motor vehicles, especially bicycles.
255. School: An educational facility.
256. School, Commercial: A school operated as a commercial enterprise. See Section 4.125(.04), Conditional Uses.
257. School, Private: Schools, including kindergartens, nurseries, children’s or adult day care facilities, play schools, and other such facilities, operated primarily through private funding sources. See Section 4.125(.04), Conditional Uses.
258. School, Public: A school endowed and/or supported by taxation. See Section 4.125(.04), Conditional Uses.
259. Screening: Any construction whose essential function is to visually conceal, as in sight-obscuring fencing or sight-obscuring planting. See Section 4.176.
260. Setback: The distance between a reference line (usually a property line) and the nearest point of a building, or portion thereof. In the Village Zone, see Section 4.125.06, Standards Applying to all Developments.
261. Service Center: A planned development commercial center or complex of uses related to serve the motoring public and located at or near the freeway interchanges. Typical uses include restaurants, motels, automobile and truck service stations and centers.
262. Shade point: The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the northern end of a ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that

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is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof (see Figures 5: Height of the Shade Point of the Structure and Figure 6: Shade Point Height in Section 4.137).

263. Shade reduction line: A line drawn parallel to the northern lot line that intersects the shade point (see Figure 7: Shade Reduction Line in Section 4.137).
264. Shade: As used in the solar access provisions of this Code, a shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.
265. Shadow pattern: A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 13: Shadow Pattern in Section 4.137).
266. Shielding.
- Directional. A luminaire designed to be aimed or pointed.
 - Fully Shielded. A luminaire emitting no more than 0.5 percent of its luminous flux above the horizontal plane, including any luminaire rated “full cut off” according to IESNA RP-8-01.
 - Partly Shielded. A luminaire emitting no more than 10 percent of its total luminous flux above the horizontal plane, including any luminaire rated “semi-cutoff” according to IESNA RP-8-01.
 - Shielded. A luminaire emitting no more than 2 percent of its total luminous flux above the horizontal plane, including any luminaire rated “cutoff” according to IESNA RP-8-01.
 - Unshielded. A luminaire that may emit its flux in any direction. [Added by Ord. 649, 6/2/08]
267. Sidewalk: A walkway, within or adjacent to a street right-of-way, paved to City standards.
268. Sight-Obscuring Planting: A dense perennial evergreen planting with sufficient foliage to obscure vision as specified in Section 4.176 and which will reach a height of at least six (6) feet within thirty (30) months after planting.
269. Sign: A device or display used or intended to be used for advertising purposes or used or intended to be used to inform or attract the attention of the public. “Sign” includes, where applicable, the structure, display surface, or other component parts of the device or display. Examples include, but are not limited to, advertising sign, banner, outdoor advertising sign, on-premises sign, temporary sign, window sign, message, light (other than a device used primarily to illuminate a building and/or premise), emblem, figure or, painting, mural, drawing, placard, or poster. The display of merchandise that is offered on the premises shall not be considered to be a sign unless it is attached to any exterior surface or structure of the building including, but not limited to, roofs, walls, marquees, monuments, or poles. The scope of the term “sign” does not depend on the content of the message or image conveyed. A sign does not include architectural or landscape features that may attract attention but do not convey a message or image considered speech, or trademark, protected under federal or state law.

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- A. Addressing Signs: Signs indicating, at a minimum, the numerical address of the building.
- B. Baseline: The invisible line on which text or other characters sit, the bottom extent of the cap height of a typeface.
- C. Bowl: In a font or typeface, an open or closed circular line that creates an interior space, such as in the letters “d” and “c.”
- D. Cap Height: In a font or typeface, the distance from the baseline to the top of uppercase letters like “H” and “J.”
- E. Changing image sign. Any sign which, through the use of moving structural elements, flashing or sequential lights, lighting elements, prisms, or other method, results in movement, the appearance of movement, or change of sign image or text except changeable copy signs defined below.
- F. Changeable copy sign. Any sign, digital or manual, which is designed to have the copy changed routinely and where the frequency of copy change does not exceed once every fifteen (15) minutes, except in emergency situations as requested by the City Manager or designee.
- G. Descender: In a font or typeface, the part of a letter extending below the baseline including lower portion of the lowercase letters “g,” “j,” “p,” “q,” and “y.”
- H. Directional signs: Signs on private property that provide directions for the traveling public and are deemed necessary for the safe traverse of the public.
- I. Flashing Sign: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times when such sign is in use. For the purpose of this Code, any moving illuminated sign shall be considered a flashing sign.
- J. Freestanding Sign: A sign erected and maintained on a freestanding frame, mast, or pole not attached to any building, and not including ground-mounted signs.
- K. Ground-mounted Sign: A non-temporary sign which extends from the ground, or has support which places the bottom of the sign less than two (2) feet from the ground, including monument signs.
- L. Inflatable Sign: Any device that depends on a differential between internal and external air pressure to maintain its size, form or shape regardless of whether it is tied, tethered, mounted or connected to a pole, building, or ground.
- M. Institutional Signs: Signs that identify public buildings, churches, public and private schools and other such structures used for public gathering or to serve the general public. The Planning Director shall determine the nature of such signs if there is a question. Institutional signage shall comply with all applicable provisions of this Code.
- N. Integral Sign: A sign carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction indicating names of buildings, date of erection, monumental citations, commemorative tablets and the like when made an integral a part of the structures.
- O. Lawn Sign. A temporary freestanding sign commonly made of corrugated plastic, greyboard, or similar type of material, constructed and maintained to prevent

Section 4.001 Definitions.

being moved or heavily damaged by typical exposure to natural elements. Lawn signs in the rights-of-way under W.C. 4.156.10 may be constructed to be portable.

- P. Marquee Sign: A canopy or covering structure bearing a signboard or graphics projecting from, and attached to, a building.
- Q. Permanent Sign: Any sign that does not meet the definition of a temporary sign, below.
- R. Portable Sign: A sign that is not permanently affixed to a building, structure, or the ground; a sign designed to be moved from place to place. These signs include, but are not limited to movable A-frame signs, sandwich board signs, signs on vehicles or trailers, and signs attached to wood or metal frames designed to be self-supporting and movable, including trailer reader boards.
- S. Projecting Sign: A sign, other than a wall sign which projects from and is supported by a wall of a building or structure. Projecting Signs are differentiated from Wall Flat Signs as defined below.
 - 1. Blade Sign: A sign hanging, perpendicular to a building façade, from a canopy, building projection, or mounting bracket intended to aid pedestrians in wayfinding.
- T. Rigid Sign: A temporary freestanding sign designed and constructed with materials of a grade and quality to withstand strong winds, rains, and harsh weather conditions, and maintained as a potentially year-long temporary sign to ensure that degradation or weathering does not present aesthetic and public safety concerns and the sign retains substantially the same quality throughout the year. Such signs may not be constructed of cardboard, poster board, or other similar lightweight paper products.
- U. Roof Sign: A sign located on or above the roof of any building, not including a false mansard roof, canopy or other fascia.
- V. Selling Slogans: A brief striking phrase used in advertising or promotion. The hours of operation of a business shall be considered to be a selling slogan.
- W. Serif: In fonts and typefaces, the extra stroke at the end of a letter or character.
- X. Shoulder: In fonts and typefaces, the curve at the beginning of a leg of a character such as the upper curved portion of the lowercase letters “m” and “n.”
- Y. Sign Area: The display surface or face of the sign calculated as prescribed in Section 4.156.04
- Z. Temporary Sign: A sign not permanently affixed to a building, structure, or the ground, intended to be displayed for a limited period of time.
- AA. Video Sign: Moving visual messages projected on any surface.
- BB. Wall Flat Sign: A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits of any building and which projects from that surface not more than twelve (12) inches at all points.
- CC. Wayfinding Sign: The term way finding sign has two different contextual meanings. First, it is used as a general description of one of the basic purposes or functions of signs, which is to assist in directing the general public to specific destinations within the community, so that they find their way. In this context almost all signs provide some degree of way finding information. Second, the

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term is used to describe a specific type of sign, such as local directional signs and district wayfinding signs, that provides specific identity and/or direction to particular businesses, facilities, or places of interest, such as parks, tourist attractions, public buildings, schools, special districts, or other locations to which the public commonly asks for directions.

[Sign definitions revised by Ord. 675, 3/1/10.] [Sign definitions revised by Ord. No. 704, 6/18/12].

270. Significant Resource Impact Report (SRIR): See Section 4.139.00
271. Significant Resource Overlay Zone (SROZ): See Section 4.139.00
272. Site Area, Net: The area of a development site, excepting all areas in streets or private drives, driveways, and parking spaces.
273. Site Development: Any human-caused change to improved or unimproved property -, including, but not limited to, land surface mining, grading, filling, excavation, tree cutting, clearing, construction, installation or alteration of a building or other structure, establishment or termination of an access or outdoor storage on the land.
274. Solar access height limit: A series of contour line establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see Figure 12: Solar Access Height Limit in Section 4.137).
275. Solar access permit: A document issued by the city that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies.
276. Solar feature: A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window or windows that contain(s) at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this Section.
277. Solar gain line: A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 8: Solar Gain Line in Section 4.137).
278. Source Separated Recyclables: Recyclable materials designated “principle recyclable materials” by the Oregon Environmental Quality Commission under ORS 495A.025 with the exception of yard debris, as well as other source-separated recyclables that may be designated by local ordinance or regulation. [Amended by Ord. #426 – 4/1/94]
279. South or South facing: True south, or 20 degrees east of magnetic south.
280. Special Flood Hazard Area: Means an area having special flood, mudslide (i.e., mudflow), and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, AE, AH, VE, or V. [Amended by Ord. # 647, 4/21/08; Ord. 686, 11/1/10]

Section 4.001 Definitions.

281. Specific Area Plan (SAP): A plan with a series of detailed components covering one of the five distinct areas of the Villebois Village Master Plan. These plans provide a higher level of analysis and detail than the Villebois Village Master Plan.
282. Stacked Flats: Two or more single-level dwelling units, the second arranged above the first, etc.
283. 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 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. [Added by Ord. # 647, 4/21/08; amended by Ord. 686, 11/1/10]
284. Stoop: A small uncovered platform or porch at the entrance to a dwelling, usually up several steps from the sidewalk.
285. Storage Area for Solid Waste or Recyclables: The space necessary to store mixed solid waste and source separated recyclables that accumulate between collection days. [Amended by Ord. #426 – 4/1/94]
286. Story: That portion of a building included between a floor and the ceiling next above it, exclusive of a basement.
287. Street: The entire right-of-way of a dedicated public way, which provides vehicular and pedestrian access to adjacent properties. Except in the Village zone, a right-of-way less than twenty (20) feet in width shall not be recognized as a street.
288. Street, Arterial: A street used primarily for through traffic.
289. Street, Collector: A street used to some extent for through traffic and to some extent for access to abutting properties.
290. Street, Frontage: A minor street parallel to and adjacent to a major street providing access to abutting properties and protection from through traffic.
291. Street, Half: A portion of the width of a street, usually along the edge of a development where the remaining portion of the street could be provided in another adjacent development. In the Village Zone, see Section 4.125(.09), Street Improvement Standards.
292. Street, Private: Same as Private Drive.
293. Street Tree Master Plan: A plan that denotes the species, spacing, minimum size and location of all street trees.
294. Street, Local: A street used exclusively for access to abutting properties.

Section 4.001 Definitions.

295. **Structure:** Anything built which requires location on the ground or is attached to something having a location on the ground. For floodplain management purposes a structure is a walled and roofed building including a gas or liquid storage tank that is principally above ground. [Amended by Ord. # 647, 4/21/08; Ord. 686, 11/1/10]
296. **Structured Parking:** Enclosure for the storage of four or more vehicles.
297. **Subdivide:** To effect a subdivision of land, as defined below.
298. **Subdivider:** Any owner commencing proceedings under Sections 4.200 to 4.290 to effect a subdivision of land.
299. **Subdivision:** Either an act of subdividing land, or an area or tract of land subdivided as defined in this Code. A subdivision means the division of land into more than three (3) lots.
300. **Substantial Damage:** 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. [Added by Ord. # 647, 4/21/08]
301. **Substantial Development:** Receipt of a valid public works permit or building permit for construction activities, other than a grading permit, is deemed to constitute "substantial development."
302. **Substantial Improvement:** Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50 percent) of the market value of the structure, as determined by the City's Building Official, either:
- A. Before the improvement or repair is started, or
 - B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes 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 is not used in the same manner as the term "substantial development" and does not include either:
 - (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely 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.
303. **Sunchart:** One or more photographs that plot the position of the sun between 10:30 am and 1:30 pm on January 21, prepared pursuant to guidelines issued by the Planning Director. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30-minute northern latitude in 10-degree increments and solar azimuth from true south in 15-degree increments.
304. **Support Structure (Telecommunication):** The structure to which wireless communication antennae and other necessary hardware are mounted. For purposes of this ordinance the terms "support structure," "tower," and "transmission tower" shall be interchangeable. Support structures include, but are not limited to:

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- A. Guyed Tower: A tower which is supported, in whole or in part, but the use of cables (guy wires) and ground anchors.
 - B. Lattice tower: A freestanding support structure which consists of an open framework of crossed metal braces on three or four sides which stabilize the tower and which is built without guy wires and ground anchors.
 - C. Monopole: A freestanding support structure consisting of a single upright pole sunk into the ground and/or attached to a foundation and engineered to be self-supporting without guy wires or ground anchors.
305. Terrace: A raised space or platform adjoining a building, paved or planted, especially one used for leisure enjoyment.
306. Temporary Lighting. Lighting installed with temporary wiring and operated for less than 120 days in any calendar year. [Added by Ord. 649, 6/2/08]
307. Theater: A building or outdoor structure providing facilities for the presentation of performances.
308. Through Zone: The width of unobstructed space on a sidewalk or pedestrian pathway. [Added by Ord. #719, 6/17/13.]
309. Tower Footprint: The area described at the base of a transmission tower as the perimeter of the transmission tower including the transmission tower foundation and any attached or overhanging equipment, attachments or structural members but excluding ancillary facilities and guy wires and anchors. [Added by Ord. #479, 5/19/97]
310. Tower Height: The distance measured vertically from the highest point when positioned for operation to the lowest point, which is defined as the bottom of the base of the structure being measured at either roof level for a roof-mounted structure or at ground level for a freestanding structure. The height of a tower shall include the height of any antennae positioned for operation attached or which may be attached to the highest point on the tower. [Added by Ord. #479, 5/19/97]
311. Tower Pad: The area encompassing the tower footprint, ancillary facilities, fencing and screening. [Added by Ord. #479, 5/19/97]
312. Town Center: That part of the community that is generally bounded by, or adjoining, Town Center Loop Road.
313. Townhouse: A configuration of a Multiple Family Dwelling where multi-story units are attached in an unbroken row sharing common walls, and each having a separate entrance.
314. Trailers, Travel Trailers, Mobile Coaches: A vehicle or structure constructed for movement on the public highways, that has sleeping, cooking or plumbing facilities and is intended for temporary residential and/or recreational uses. Trailers, travel trailers, and mobile coaches do not meet the standards to be considered mobile homes or manufactured dwellings noted above.
315. Transit Stop: A designated location along or near a transit street for pick-up and drop-off of transit users.
316. Transit Station: A facility at a major transit stop accommodating multiple types of transportation, including the seating, sheltering, pick-up, and drop-off of transit

Section 4.001 Definitions.

- users; bicycle storage; automobile drop-off lanes; and other uses compatible with transit use.
317. Transit Street: A designated transit route with one or more transit stops serving TRI-MET or South Metro Area Rapid Transit (SMART) riders.
318. Tree: Any living, standing woody plant having a trunk six inches or more d.b.h. at four and one-half (4-1/2) feet above grade.
319. Tree Cutting: The falling or removal of a tree, or any procedure the natural result of which is to cause the death or substantial destruction of a tree, including topping and severe cutting back of limbs to such a degree as to destroy or adversely affect the normal growth pattern of the tree. Cutting does not include routine pruning or trimming.
320. Tree Preservation and Protection Plan: A plan that indicates the locations of existing trees to be preserved and the methods to be employed to do so. See the City of Wilsonville Tree Preservation Code, Section 4.600 for additional information.
321. Tree Pruning: Reduction of a tree to achieve a better shape and more fruitful growth, using common practices of the arboriculture industry, including the International Society of Arboriculture, the Oregon Department of Forestry (Urban Forestry), or other professional arboriculture industry organizations.
322. Tree Survey: Information provided by an arborist which describes size, species, health, and condition, and an accurate map that locates the trees on the property and descriptive text. Tree surveys shall be provided in keeping with WC 4.610.30 and 4.610.40.
323. Tree Topping: The severe cutting of the top or limbs within the tree's crown to such a degree so as to remove the natural canopy or disfigure the tree.
324. TRP: Tree Removal Permit.
325. Undevelopable area: As used in the solar access provisions of this Code, an area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20% in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.
326. Urban Growth Management Function Plan (UGMFP): Regulatory requirements imposed on local governments by Metro.
327. Use: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied.
328. Utilities: Any water, gas, sewer, storm drainage, electrical, telephone, or communication service and all persons, companies, and agencies supplying the same.
329. Value: Current market value or replacement cost as determined by a licensed or certified professional in the tree, nursery, or landscape field.

Section 4.001 Definitions.

330. Variance: Means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance. A Variance does not allow a use that is prohibited by this Chapter.
331. View Corridor: As located and defined in the Master Plan, a view corridor is a panorama or line-of-site that, for aesthetic or cultural reasons, is to remain free of noncontributing elements.
332. Village Center: An area illustrated and described in the Villebois Village Master Plan, providing a mixture of residential and commercial uses, at the intersection of three neighborhoods. The Village Center is the focal point of civic and commercial activity.
333. Village Center Architectural Standards: A document that includes standards for all buildings within the Village Center. [Definition amended by Ord. No. 595, 12/5/05.]
334. Village Zone: The zoning district that is applied to areas designated Residential Village on the Wilsonville Comprehensive Plan Map. The Village zone implements the Residential-Village designation and the Villebois Village Master Plan. Also known as the V zone.
335. Villebois Village Master Plan: The approved document depicting the general organizational structure of the Villebois Village Concept Plan, implemented by the Residential-Village Comprehensive Plan designation, and the Village (V) zone, including but not limited to the form and location of public open spaces, types and alignment of the utilities and various thoroughfares, and land use types and locations.
336. Violation: The division or use of land or structures, or the construction of, addition to, or alteration of, structures in a manner that does not fully comply with the provisions of Chapter 4. Structures located in flood hazard areas without adequate elevation certificates or other satisfactory proof of compliance with the provisions of Section 4.172 will be presumed to be in violation until such time as the necessary information has been provided to the Community Development Director.
337. Wall: An upright construction having a length greater than the thickness and presenting a continuous surface except where pierced by doors, windows, etc., used for shelter, protection, or privacy.
338. Water-Dependent: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production or source of water.
339. Water-Related: Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories; and trailer parks are not generally considered dependent on or related to water location needs.
340. Wayfinding Plan: See Master Signage and Wayfinding Plan.
341. Wetlands: Existing wetlands include jurisdictional wetlands as determined by the Division of State Lands (DSL) and/or the US Army Corps of Engineers (COE).

Section 4.002. Scope, Interpretation and Compliance.

“Wetlands” are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Created wetlands are mitigation wetlands as defined by the Division of State Lands or US Army Corps of Engineers. For the purpose of this ordinance, wetlands shall not include these constructed facilities:

- A. stormwater treatment ponds or swales;
 - B. stormwater treatment wetlands;
 - C. detention ponds;
 - D. a 25-foot buffer adjacent to the wetland;
 - E. an off-stream recreational lake, lagoon, fire pond or reservoir; and
 - F. ditches that are not mapped within the Significant Resources Overlay Zone and are constructed solely for the purpose of draining roads, lots, and outfalls of storm drains.
342. **Wildlife Habitat:** A Goal 5 resource defined as an area upon which wildlife depend in order to meet their requirements for food, water, shelter and reproduction. Wildlife habitat in the *City of Wilsonville Natural Resource Inventory and Goal 5, Title 3, Endangered Species Act Compliance and Protection Plan* refers to upland, forested areas of at least one-acre size. Hazelnut orchards, small clumps of trees and areas with only a few scattered trees are not included as wildlife habitat.
343. **Wireless Communication Facilities (WCF):** An unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. WCFs are composed of two or more of the following components: (1) antenna; (2) support structure; (3) equipment enclosures; and (4) security barrier. [Added by Ord. #479, 5/19/97]
344. **Yard:** The open space, other than a court, on a lot, unoccupied and unobstructed other than by landscaping or permitted fences from the ground upward, between a structure or structures and any lot line. The minimum horizontal distance between any point on a lot line and the nearest part of any structure or building is the yard depth.
345. **Yard, Front:** Any yard abutting a street or private drive, unless one side is determined to meet the definition of a side yard, below. Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a front yard.
346. **Yard, Rear:** Any yard abutting a rear lot line.
347. **Yard, Side:** Any yard abutting a side lot line and, for corner lots, the side with the longest frontage along a street or private drive. Where a corner lot has an existing building with a primary entrance, the side along a street or private drive without the entrance shall be deemed the side yard. Where a corner lot has the same amount of frontage on both streets or private drives, and no primary building entrance facing either street or private drive, the Planning Director may designate the side yard in order to determine required setbacks. Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a side yard.

[Definitions amended by Ord. 557, 9/5/03; Ord. 682, 9/9/10; Ord. 686, 11/1/10]

Section 4.002. Scope, Interpretation and Compliance.

Section 4.003. Consistency with Plan and Laws.

- (.01) A parcel of land may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise only as this Code permits. In addition to complying with the criteria and other provisions within this Code, each development shall comply with (1) the applicable elements of the Comprehensive Plan, and (2) any conditions of approval established by the City of Wilsonville. The requirements of this Code apply to the property owner, the person undertaking a development or the user of a development and to the person's successors in interest.
- (.02) Illustrations, examples and graphic materials contained in this Code are intended to aid in interpretation but are not intended to replace, or take precedence over, the text.

Section 4.003. Consistency with Plan and Laws.

Actions initiated under this Code shall be consistent with the Comprehensive Plan and with applicable State and Federal laws and regulations as these plans, laws and regulations may now or hereafter provide.

Section 4.004. Development Permit Required.

- (.01) Except as excluded by Section 4.005, no person shall directly or indirectly engage in or cause to occur a development for which a development permit has not been issued. The building official shall not issue a permit for the construction, reconstruction or alteration of a structure or a part of a structure for which a development permit has not been issued.
- (.02) A development permit shall be issued by the Planning Director in accordance with the provisions set forth in Sections 4.035 of this Code. The Director shall not issue a development permit for the improvement or use of land that has been previously divided or otherwise developed in violation of this Code, regardless of whether the permit applicant or its predecessor created the violation, unless the violation can be rectified as part of the development.
- (.03) Unless appealed, as provided in Section 4.022, a decision on a development permit shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body.

Section 4.005 Exclusions from Development Permit Requirement.

An activity or development listed below is excluded from the requirements for a development permit.

- (.01) Landscaping, provided that plant materials specifically prohibited by the Wilsonville Code are not installed.
- (.02) A change internal to a building or other structure that does not substantially affect the use of the structure or an alteration that does not substantially affect the use or appearance of land or a structure.
- (.03) An emergency measure necessary for the safety or protection of people or property.

Section 4.006. Use of a Development.

- (.04) Farming, provided that the farming is a continuation of agricultural activities on the site and is not a temporary process as a precursor to other development of the site.
- (.05) Except as otherwise required by Sections 4.184 and 4.500 to 4.510, the establishment, construction or termination of an authorized public facility that serves development, including such facilities as a private street, transportation facilities within the public right-of-way, sewer, water line, electrical power or gas distribution line, or telephone or television cable system, provided said construction complies with applicable Public Works Standards. This exemption is not intended to apply to buildings used by utility providers. [Amended by Ord. #719, 6/17/13.]
- (.06) Installation or construction of an accessory structure that does not require a building permit.
- (.07) Minor clearing or grading for purposes of site surveying, or exploratory excavations under direction of a civil engineer or engineering geologist, provided said grading or excavation is consistent with Building Code requirements.
- (.08) Exclusion from a permit does not exempt the development or its use from applicable requirements of the Comprehensive Plan or from the tree preservation or protection requirements of Section 4.600.00, et seq. (Tree Preservation and Protection).

Section 4.006. Use of a Development.

A development may be used only in a manner that is not prohibited by law and for which the development is designed, arranged and intended or which is "nonconforming" as defined in Section 4.001.

Section 4.007 Lawfully Existing Development.

For the purposes of this Code, lawfully existing uses shall include the following:

- (.01) All lawfully existing land uses and buildings developed in accordance with the Comprehensive Plan and Zoning Ordinance, including land uses and buildings that were legally established subject to Ordinance No. 23 or 154, and Design Review Ordinance No. 38 or Subdivision Ordinance No. 16.
- (.02) All site development permits, Planned Development Permits, Final Development Plans, and tentative plats approved by the Planning Commission or Development Review Board prior to the effective date of this Code shall be valid for the purposes of submittal of final plats or issuance of Building Permits, unless they have expired as provided in Section 4.023. Said plans shall remain valid, consistent with the conditions and time limitations in effect on the effective date of this Code and conditions of approval imposed on the application. Development approvals are subject to expiration as provided in Section 4.023.

Section 4.008. Application Procedures - In General.

- (.01) The general application procedures listed in Sections 4.008 through 4.024 apply to all land use and development applications governed by Chapter 4 of the Wilsonville

Section 4.008. Application Procedures - In General.

Code. These include applications for all of the following types of land use or development approvals:

- A. Class I and Class II Administrative Reviews, pursuant to Section 4.030;
- B. Stage I and Stage II Site Development Permits, pursuant to Section 4.035;
- C. Conditional Use Permits, pursuant to Section 4.184;
- D. Variances, pursuant to Section 4.196;
- E. Quasi-judicial zone changes, pursuant to Section 4.197;
- F. Changes to the text of Chapter 4, pursuant to Section 4.197;
- G. Quasi-judicial changes to the map or maps of the Comprehensive Plan, pursuant to Section 4.198;
- H. Changes to the text of the Comprehensive Plan, including adoption of new Plan elements or sub-elements, pursuant to Section 4.198;
- I. Subdivisions, condominium divisions, and land partitions, pursuant to Section 4.200;
- J. Expedited land divisions, pursuant to Section 4.232;
- K. Annexations, pursuant to Section 4.700; and
- L. Street vacations, pursuant to ORS 271 and Sections 4.031 and 4.032 of this Code.
- M. Specific Area Plans, preliminary Development Plans and Final Development Plans, pursuant to Section 4.125. (Added by Ord. 557 adopted 9/5/03)

(.02) Unique features of Wilsonville's development review processes. The Wilsonville Land Development and Planning Ordinance is structured and implemented differently than the Codes of most other cities. These differences are summarized below:

- A. Most of Wilsonville's vacant land (without active approved projects) is zoned RA-H, a Residential-Agricultural holding zone with a large minimum lot size. Properties in this holding zone must be rezoned to conform with the Comprehensive Plan as part of the planned development review process.
- B. If the subject property is over 2 acres in size, it must be zoned in one of the Planned Development categories, (PDR, PDC, PDI, RN etc.), or zoned for public use, before it can be developed.
- C. Some portions of a parcel may have development constraints because of such things as steep slopes, wetlands, wildlife habitat, hazard areas, or trees.
- D. In residential developments, at least 25% of the site area must be preserved as open space, unless otherwise provided for in a legislative master plan. Some of the site is also typically required to be recreational area. See Section 4.113 for more information on requirements for open space and recreational area in residential developments. For all projects, at least 15% of the net site area must be landscaped including vegetative plant materials.

Section 4.008. Application Procedures - In General.

- E. Unless waived by the Community Development Director for good cause, a traffic study must be completed to determine that the City's level of service standards can be met, considering the subject development and all previously approved projects.
- F. For a Planned Development there are four (4) phases of project approval. Some of these phases may be combined, but generally the approvals move from the conceptual stage through to detailed architectural, landscape and site plan review in stages:
 - 1. Rezoning;
 - 2. Stage 1 - Preliminary Plan;
 - 3. Stage 2 - Final Plan; and
 - 4. Site Design Review.
- G. Approval of each stage shall remain valid unless it expires as provided in Section 4.023. A Stage I approval will not be revoked or substantially altered during the Stage II review process, unless requested by the applicant. Stage II approval will not be revoked or substantially altered during the Site Design Review process, unless requested by the applicant. Zoning may be changed by action of the City Council, but will not be subject to automatic revocation unless such revocation is specifically made a condition of approval at the time of the original zone change.
- H. In Wilsonville, the practice is to review each new phase in light of previous approvals and conditions. At construction and occupancy, the review includes inspections to verify compliance with conditions of approval. These inspections include detailed site comparison with previous plan approvals (including number and types of plants and design of elevations and setbacks). Developers are often required to post a bond or provide other financial security for the completion of the conditions of approval for the project.
- I. Wilsonville uses a "concurrency" requirement regarding public services and facilities. Basically, the needed services and facilities must be scheduled for completion within two years of occupancy and a positive finding of such concurrency must be made prior to project approval.
- J. Wilsonville expects project progress to be made in a timely fashion. For each step in the Planned Development, the applicant must take action to "exercise" the approval within a given time period or the approval lapses.
- K. Special additional features include: mixed use provisions for most zones ability to "waive" many of the typical development standards based on design improvements that will result; density transfers; strong variance provisions; tree protection with mitigation requirements for tree cutting; City Council "Call Up" provisions; heavy landscaping requirements; owner/developer signature to accept and abide by conditions; limited administrative approval power; enforcement powers and practice.

[Section 4.008(.02)(K.) amended by Ord. No. 574, 11/1/04]

Section 4.009. Who May Initiate Applications.

L. For Land in the Village zone, there are three (3) phases of project approval. Some of these phases may be combined, but generally the approvals move from the conceptual stage through to detailed architectural, landscape and plan review in phases:

1. Specific Area Plan (SAP);
2. Preliminary Development Plan (PDP), Rezoning, and Final Development Plan (FDP); and
3. Land Division Approval.

Land within the Central SAP or multi-family dwellings outside of the Central SAP may be developed in four phases, with the application and approval of an FDP occurring after PDP approval.

[Added by Ord. 557 adopted 9/5/03]

[Section 4.008(.02)(L) amended by Ord. No. 587, 5/16/05.]

Section 4.009. Who May Initiate Applications.

- (.01) Except for a Specific Area Plan (SAP), applications involving specific sites may be filed only by the owner of the subject property, by a unit of government that is in the process of acquiring the property, or by an agent who has been authorized by the owner, in writing, to apply. Changes to the Comprehensive Plan or zoning may also be initiated by the City Council, Planning Commission, or Development Review Board, acting by motion. Applications involving a Specific Area Plan shall be initiated as provided in Section 4.125(.18)(C) and (D). [Amended by Ord. 557 adopted 9/5/03]
- (.02) Applications involving large areas of the community or proposed amendments to the text of this Chapter or the Comprehensive Plan may be initiated by any property owner, business proprietor, or resident of the City, as well as by the City Council, Planning Commission, or Development Review Board acting by motion.
- (.03) A decision by the City Council, Planning Commission, or Development Review Board to initiate an action under this Section does not predetermine that the same body will approve or adopt the proposed change after concluding public hearings.
- (.04) In the event that the City of Wilsonville is the applicant, the City Manager may authorize any City employee or consultant to act as the City's agent.

Section 4.010. How To Apply.

- (.01) Contact Planning Department. Prospective applicants are advised to contact the Planning Department of the City's Community Development Department for application forms and information on application procedures.
- (.02) Pre-Application Conference

Section 4.011. How Applications are Processed.

- A. An applicant or the applicant's authorized representative shall contact the Planning Department to arrange a pre-application conference, unless the applicant and the Planning Director agree the conference is not needed.
- B. The conference shall be held within thirty (30) days of the request.
- C. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Code, provide for an exchange of information regarding applicable elements of the Comprehensive Plan and development standards, arrange such technical and design assistance as will aid the applicant, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.
- D. Such conferences will be open to the public unless the prospective applicant requests a private conference. Private pre-application conferences are conducted in order to protect the interests of those who have not yet completed property acquisition arrangements, or who are concerned about providing proprietary information that may give an advantage to competing developers or businesses. However, once an application has been filed with the City, all information that is part of the public record will be available for public review.
- E. The Planning Department if requested in writing by the applicant at least one week in advance of the pre-application conference, shall provide the applicant with a written summary of the conference within five (5) working days after the conference. If prepared, written summaries of pre-application conferences shall be available for public review. Summaries shall include:
 - 1. Confirmation of the procedures to be used to process the application;
 - 2. A list of materials to be submitted; and
 - 3. The criteria and standards which may apply to the approval of the application.

Section 4.011. How Applications are Processed.

- (.01) Applications submitted without the required filing fee shall not be considered to be "filed" and shall be returned to the prospective applicant without being processed.
- (.02) After filing, all applications shall be reviewed by City staff for completeness.
 - A. In the event that an application is found to be incomplete in any way, the Planning Director shall notify the applicant in writing within thirty (30) days of the original filing and shall list the deficiencies in the application.
 - B. City Council Resolution No. 796 precludes the approval of any development application without the prior payment of all applicable City liens for the subject property. Applicants shall be encouraged to contact the City Finance Department to verify that there are no outstanding liens. If the Planning Director is advised of outstanding liens while an application is under consideration, the Director shall advise the applicant that payments must be made current or the existence of liens will necessitate denial of the application.

Section 4.012. Public Hearing Notices.

- C. Failure of an applicant to remedy any deficiencies in an application prior to the preparation of the staff report on the matter shall constitute adequate grounds for denial of the application by the appropriate decision-making body. Failure of an applicant to provide the deficient information may be considered to be a "refusal" as the term is used in ORS 197, and the application shall be processed accordingly.
 - D. Upon concluding that an application is complete, or that it will be processed in spite of the applicant's failure or refusal to correct any deficiencies in the application, the Planning Director shall provide copies of the application materials to other affected agencies and City departments, requesting their input and recommendations for the record.
 - 1. Such other agencies and departments shall be given a specified amount of time to respond, sufficient to allow the planning staff an opportunity to complete the preparation of a written staff report for the review of the public and decision-makers. For public hearing items, staff reports are printed and available for review seven (7) days prior to the time when a public hearing is conducted.
 - 2. Each written staff report includes a list of the agencies and departments contacted in the review process and their written comments, if any.
- (.03) Written testimony that is sent via mail, facsimile, or computer will be processed as specified in Section 4.035. All parties are discouraged from relying exclusively on these means of submitting testimony unless verification is received that the subject testimony has been received and made part of the record.

Section 4.012. Public Hearing Notices.

- (.01) Published Notice. The Planning Director shall have published in a newspaper of general circulation in the City of Wilsonville, prior to the date of the Planning Commission or Development Review Board meeting, a notice that the Commission or the Board will consider proposals, documents, or pending applications.
- A. If the matter will require a public hearing, the notice shall be published at least ten (10) and not more than twenty-one (21) days before the first hearing.
 - B. The publication shall contain a brief description of the subject property, including either the street address or other common description of the site, and including the approximate geographic location such as a reference to nearby cross streets, the time and place that the City's decision-making body will consider the submitted documents, and the nature of the proposal, as well as other matters required by law. Failure to advertise as specified in this Section shall not invalidate any decisions or proceedings of the City if a good faith attempt was made to comply with the notice requirements of this Code.
- [Section 4.012(.01) amended by Ordinance No. 538, 2/21/02.]
- (.02) Mailed Notice for Quasi-Judicial Hearings.

Section 4.013. Hearing Procedures.

- A. For development projects involving Class II Administrative Reviews, or quasi-judicial public hearings, the Planning Director shall ensure the following:
 - 1. Public hearing notices shall be mailed to the owners of real property located within 250 feet of the site of the proposed development. The Planning Director shall use the property ownership lists of the County Assessor in determining the recipients of the notices.
 - 2. Notice shall be sent to any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected roadway authority. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
 - B. Notices shall be mailed not less than twenty (20) days nor more than forty (40) days prior to the initial public hearing date. Except, however, in cases where the development proposal will require public hearings before both the City Council and Development Review Board, in which case the notices shall be mailed at least ten (10) days before the initial public hearing.
 - C. In any case where State law requires different timing or form of notice than that specified in this Code, the standard requiring a broader coverage or duration of notice shall be followed.
 - D. The City will make a good faith effort to contact property owners whose names do not appear on County ownership records and to contact others who have asked to be contacted for different types of applications.
- (.03) Mailed Notice for Legislative Hearings. Where applicable, the Planning Director shall have notices of legislative hearings mailed to individual property owners as specified in State law.
- (.04) Posted Notice.
- A. The Planning Director shall have notice of development proposals, subject to Class II administrative or hearing body review, posted in at least three (3) standard locations for public notice. In addition, the property proposed for development may be posted so as to be visible and legible from adjacent public streets.
 - B. Notice shall be posted not less than twenty-one (21) nor more than forty (40) days prior to the anticipated date of final decision or hearing, except in the case where the notice concerns public hearings before both the City Council and either the Planning Commission or Development Review Board. In such cases, the notice shall be posted at least ten (10), and not more than forty (40), days before the initial hearing.

Section 4.013. Hearing Procedures.

- (.01) Public Hearings shall be conducted in accordance with procedures for evidentiary hearings set forth in Section 2.560 of the Wilsonville Code, or as otherwise amended by City Council action.

Section 4.014. **Burden of Proof.**

- (.02) **Decision.** Following the public hearing, the hearing body shall approve, conditionally approve, or deny the application or if the hearing is in the nature of an appeal, affirm, reverse or remand the decision that is on appeal.
- (.03) A final decision involving a hearing on an application for a Development Permit shall be made within one hundred and twenty (120) days of the application being deemed complete; other than expedited land divisions which require a final decision within sixty-three (63) days of a complete filing. Except, however, that with agreement of the hearing body and the applicant or appellant, the processing of a matter under consideration may be extended for a reasonable period of time as determined by the hearing body.

Section 4.014. Burden of Proof.

The burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the applicant in the case. In the case of an appeal, the burden of proof rests with the appellant.

Section 4.015. Findings and Conditions.

- (.01) All decisions on applications filed pursuant to this Chapter shall include written findings of fact and may include conditions of approval. Findings of fact shall include:
 - A. A statement of the applicable criteria against which the proposal was tested, and of the hearing body's interpretation of what would be required to achieve compliance with the criteria and standards.
 - B. A statement of the facts which the hearing body found establishing compliance or noncompliance with each applicable criterion and assurance of compliance with applicable standards.
 - C. The reasons for a conclusion to approve or deny.
 - D. The decision to deny or approve the proposed change with or without conditions.
- (.02) Any graphic or written information, as well as any verbal commitments made by an applicant or applicant's agent during a public hearing, shall automatically be included as requirements of any approval granted by the City, unless specifically altered or waived by the City's decision-making body.
- (.03) Those testifying in a public hearing process, either for or against a given application, are encouraged to submit draft findings of fact for the consideration of the decision-makers. The decision-makers may choose to adopt as findings of fact any part, or none, of any testimony that is submitted.

Section 4.016. Notification of Action on Applications.

All individuals who are required by law to receive notification, as well as any persons who submit oral or written testimony on an application, shall be provided with written notification of

Section 4.017. Withdrawal of Application

the decision on the application at the same time. This notification shall include information on local appeal procedures and requirements.

Section 4.017. Withdrawal of Application

- (.01) An application for a zone change or development permit may be withdrawn, at the request of the applicant, any time up to the point that the first public hearing on the matter is closed. Once the hearing has been closed, however, a final decision shall be made and no withdrawal request will be accepted.
- (.02) If an application is withdrawn within one week of the date it was submitted, the application fee, less a 15% administrative cost, shall be refunded. Any withdrawal after one week of the date it was submitted shall be without any refund or application fees, unless the Director authorizes a refund because of an unusual hardship to the applicant. In such cases, the Director shall determine an appropriate refund based upon the costs already incurred by the city in processing the application. [(Added Ord. 282, 12/16/85)].

Section 4.018. Participation by Interested Officers or Employees.

No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

Section 4.019. Hearing Body - Conflicts of Interest.

Section 4.019. Hearing Body - Conflicts of Interest.

- (.01) A member of the hearing body shall disclose any actual or potential conflict of interest before participating in any hearing body proceeding or action on a planning matter involving action on any particular parcel of real estate. No member shall participate as a member of the hearing body if that member has an actual conflict of interest. A member of the hearing body may participate as a member of the public at large in cases where that member has an actual conflict of interest.
- (.02) An actual conflict of interest arises when any of the following persons have direct or substantial financial interest in the particular parcel of real estate or in property immediately adjacent to that real estate:
 - A. the member or the member's spouse,
 - B. a brother, sister, child, parent, father-in-law or mother-in-law of the member,
 - C. any business associate of the member within the previous two years, a prospective partner, an employer or prospective employer.
- (.03) If a member of the hearing body shows evidence of or declares a potential conflict of interest, members of the public or other members of the hearing body may challenge the member's participation in hearing body proceedings on the particular issue involved. Following such a challenge the member of the hearing body may either withdraw from participation or explain the invalidity of the challenge. In cases of potential conflict, the hearing body member, her/himself, will decide on her/his final participation.
- (.04) A potential conflict of interest arises when the member has an indirect financial interest in the particular parcel of real estate or in property immediately adjacent to that real estate or exhibits bias toward the real estate, its owners, or its tenants.

Section 4.020. Ex Parte Contacts.

- (.01) The general public has a right to have hearing body members free from prehearing or ex-parte contacts on quasi-judicial matters heard by that hearing body. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, hearing body members shall reveal any significant prehearing or ex-parte contacts with regard to any matter at the commencement of the public hearing on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain as specified below.
- (.02) Abstention or Disqualification. Disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.

Section 4.021. Record of Proceedings.

(.03) Rights of Disqualified Member of the Hearing Body.

- A. An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.
- B. If a majority of the members of a hearing body abstain or are disqualified, all members present after stating their reasons for abstention or disqualification shall by so doing be requalified and proceed to resolve the issues.
- C. Except for appeal hearings conducted by the Council, a member not present during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

Section 4.021. Record of Proceedings.

The Secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.

- (.01) Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.
- (.02) The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence received and made part of the record and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
- (.03) Included in the record shall be a brief statement that explains the criteria and standards considered relevant to the decision; states the facts relied upon in rendering the decision; and explains the justification for the decision based on the criteria, standards and facts set forth.
- (.04) A person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to have copies of the record made at the person's own expense.

Section 4.022. Appeal and Call-up Procedures.

- (.01) Administrative Action Appeals. A decision by the Planning Director on issuance of a Site Development Permit may be appealed. Such appeals shall be heard by the Development Review Board for all quasi-judicial land use matters except expedited land divisions, which may be appealed to a referee selected by the City to consider such cases. Only the applicant may appeal a Class I decision unless otherwise

Section 4.022. Appeal and Call-up Procedures.

specified in Section 4.030, and such appeals shall be filed, including all of the required particulars and filing fee, with the City recorder as provided in this Section. Any affected party may appeal a Class II decision by filing an appeal, including all of the required particulars and filing fee, with the City Recorder within fourteen (14) calendar days of notice of the decision. Either panel of the Development Review Board, or both panels if convened together, may also initiate a call-up of the Director's decision by motion, without the necessity of paying a filing fee, for matters other than expedited land divisions. The notice of appeal shall indicate the nature of the action or interpretation that is being appealed or called up and the matter at issue will be a determination of the appropriateness of the action or interpretation of the requirements of the Code.

- (.02) Board Action. A decision of the Development Review Board may be appealed to the Council by any affected party who participated in the hearing before the Board by filing an appeal within fourteen (14) calendar days of the posting of the notice of decision, or by the call-up procedures listed below. The notice of appeal shall indicate the decision that is being appealed.
- (.03) City Council Call-up.
 - A. Within fourteen (14) calendar days of the posting of the Development Review Board notice of decision on any project, the City Council on its own motion, may cause any final action taken by the Development Review Board to be called up for review by the full Council. If the City Council determines by majority vote that an emergency exists in that the Development Review Board will not complete its review of a given application with sufficient time for the Council to consider and resolve any appeals within the statutorily mandated 120-day limit, the City Council may vote to call the matter up for hearing by the Council prior to the completion of the Development Review Board's action on the matter. [Amended by Ord. No. 761, 12/1/14]
 - B. Notice of the call-up shall be provided in the same manner as an appeal to all parties who have testified or submitted written materials, the Planning Director, and the members of the respective commission or board, and shall also be posted and published as provided in Section 4.012. The notice shall describe the property, set forth the nature of the action and state the time, place and date set for hearing and whether public testimony is to be received.
 - C. In the event the City Council votes to call-up an action taken by the Development Review Board, any approvals granted by the Board shall be suspended until the Council has acted on the call-up.
 - D. Upon review, the Council may, by resolution or order, affirm, reverse or modify in whole or part, a determination, condition or requirement, or remand with or without instruction, the decision or part thereof that has been called up. (Added by Ordinance #396 - May 4, 1992)
- (.04) Notice. Legal notice of a hearing on an appeal shall set forth:
 - A. The date of the hearing.
 - B. The issue(s) being appealed.

Section 4.022. Appeal and Call-up Procedures.

- C. Whether the review will be on the record or whether new evidence will be accepted, if known.

(.05) Scope of Review.

- A. At its discretion, the hearing body may limit an appeal or review to a review of the record and a hearing for receipt of oral arguments regarding the record, or may accept new evidence and testimony. Except, however, that the standard of review on an appeal or call up of a staff decision to be heard by the Development Review Board is de novo.
- B. The reviewing body shall issue an order stating the scope of review on appeal to be one of the following:
 - 1. Restricted to the record made on the decision being appealed.
 - 2. Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.
 - 3. A de novo hearing on the merits.

(.06) Review on the Record

- A. Unless otherwise provided for by the reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:
 - 1. A factual report prepared by the Planning Director or the Director's designee.
 - 2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.
 - 3. The written transcript or electronic recording of the hearing and a detailed summary of the evidence.
- B. The reviewing body shall make its decision based upon the record after first granting the right of argument on the record, but not the introduction of additional evidence to any party who has filed a notice of appeal. The reviewing body shall decide if the correct procedure was followed and if so, was the correct or appropriate decision made based on the applicable policies and standards.

(.07) Review Consisting of Additional Evidence or De Novo Review.

- A. Except as otherwise specified in this Code, or required by State law, the reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing if it is satisfied that that additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision.
 - 1. Prejudice to the parties.
 - 2. Convenience or availability of evidence at the time of the initial hearing.
 - 3. Surprise to opposing parties.

Section 4.023. Expiration of Development Approvals (See also Section 4.140)

4. The competency, relevancy and materiality of the proposed testimony or other evidence.
 5. Such other factors as may be determined by the reviewing body to be appropriate.
- B. "De novo hearing" shall mean a hearing by the review body as if the action had not been previously heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

(.08) Review Body Decision

- A. Upon review, the referee, Commission, or Board may by Resolution or the Council shall by order, affirm, reverse or modify in whole or part a determination or requirement of the decision that is under review.
1. When the referee, Commission, or Board modifies or renders a decision that reverses a decision of the Planning Director, the referee, Commission or Board, in its Resolution, shall set forth its findings and state its reasons for taking the action.
 2. When the Council modifies or renders a decision that reverses a decision of the Commission or Board, the Council, in its order, shall set forth its findings and state its reasons for taking the action.
 3. When the Council modifies or renders a decision of the Commission or Board, the Council, in its order, shall set forth its findings and state its reasons for taking the action.
 4. When the Council elects to remand the matter back to the lower review body for such further consideration as it deems necessary, it shall include a statement explaining the error to have materially affected the outcome of the original decision and the action necessary to rectify such.
- B. Action by the review body shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The review body shall render its decision no later than sixty (60) calendar days after the filing of the request for review and shall file that decision with the City Recorder within five (5) working days after it is rendered.

- (.09) Effective Date of Decisions. A decision of the Planning Director, Planning Commission, or Development Review Board shall become effective on the fifteenth (15th) calendar day after the postmarked date of the written notice of decision, unless appealed or called up for review by the Council in accordance with this Section. If a matter is heard by the Council or referee, the decision shall become effective immediately.

Section 4.023. Expiration of Development Approvals (See also Section 4.140)

- (.01) Except for Specific Area Plans (SAP), land use and development permits and approvals, including both Stage I and Stage II Planned Development approvals, shall

Section 4.024. Prohibition of Resubmittal After Application Denial.

be valid for a maximum of two years, unless extended as provided in this Section. Specific Area Plan approvals shall not expire. [Amended by Ord 557 adopted 9/5/03]

- A. Substantial development, as defined in this Chapter, has taken place in compliance with the permit or approval; or
 - B. A time extension has been granted by city staff for good cause. Except as provided in subsection (.05) below, not more than three such extension may be granted, for not more than one (1) year each.
- (.02) If the development approval is for a subdivision or partition, the developer has two years from the date of approval to submit the final plat for recordation, unless a time extension has been granted as specified in Section 4.023(.01), above. Use of the site or substantial development does not obviate the need for submittal of the final plat within the specified time limits.
- (.03) Zone changes shall not expire unless expiration provisions are specifically included in the zone order adopted by the City Council.
- (.04) Requests for time extensions shall be submitted in writing, including written justification therefore, and received by the Planning Department not less than eight (8) calendar days prior to the expiration date of the permit or approval. [Amended by Ordinance No. 538, 2/21/02.]
- (.05) Notwithstanding the limitations and requirements in Section 4.023 (.01)(B.) and (.04), beginning June 1, 2009 and ending June 1, 2010, city staff shall approve all applications for one year extensions, which applications shall not require a demonstration of good cause, but shall be accompanied by a filing fee which shall not exceed the fee for a Class 1 Administrative Review, and which extensions shall not be counted toward the maximum number of extensions allowed in Subsection 4.023 (.01)(B.).

[Section 4.023 amended by Ord. # 666 7/20/09]

Section 4.024. Prohibition of Resubmittal After Application Denial.

- (.01) If an application is denied for any reason by the City, no new application which is substantially the same as the previously denied application shall be resubmitted for at least one year after the previous denial. Except, however, that the City's decision-makers may specify in denying an application that the decision is without prejudice, and the applicant may resubmit at any time. The Planning Director shall be responsible for determining, subject to appeal, whether an application is substantially the same as an application that was previously denied.
- (.02) The Planning Commission, Development Review Board, or City Council may, after finding good cause, specifically authorize the resubmittal of an application within the one-year period. Good cause shall be shown by one or more of the following:
- A. New evidence will be presented which was unavailable or unknown to the applicant at previous hearings and which could not have been discovered by reasonable diligence or the applicant; and/or

Section 4.025. Enforcement and Administration.

- B. There has been a change of circumstances since the previous hearings which materially affect the applicant's real property, and as a result, the reasons for the denial, as stated by the Planning Commission, Development Review Board or City Council, no longer exist; and/or
- C. A mistake was made at a previous hearing which was a significant factor in the denial of the previous application; and/or
- D. The resubmitted application substantially corrects any stated grounds for denial of the earlier application; and/or
- E. Resubmitted application sufficiently revises the proposal to warrant consideration.

Section 4.025. Enforcement and Administration.

- (.01) It shall be the duty of the Planning Director, to administer and enforce the provisions of Chapter 4 of this Code in a manner to assure rapid and effective compliance.
- (.02) The records of zoning actions and all amendments shall be officially held within the office of the City Recorder. All amendments to text and/or Official Zoning Map shall be approved or rejected by the City Council and acknowledged by the Mayor and attested by the City Recorder. Each action that changes a zoning district boundary shall be included on a new Official Zoning Map and approved by the Mayor and attested by the City Recorder and filed in the office of the City Recorder and will be the correct and binding zoning in all cases.
- (.03) The Commission or Board by a majority vote may instruct the Planning Director to enforce any provision of this Ordinance.
- (.04) When it appears to the City Council that there is a failure or refusal by any person, firm or corporation to comply with a final decision of the Board or Planning Commission, or of the Council in cases of appeal, or that there is a continuing violation otherwise of this Ordinance, the City Council may authorize the City Attorney to institute an appropriate suit in equity in the Circuit Court in the name of the City and abate and temporarily and permanently enjoin such violation.

Section 4.026. Enforcement Procedures and Penalties.

- (.01) On new construction, and prior to occupancy, the Planning Director shall assure that the development has occurred in substantial conformance with the approved Site Development Plans. If substantial inconsistencies occur, the Director may withhold authorization for connection of domestic water service, or may authorize the disconnection of water service, if water service has already been established. The Director also has the authority to withhold temporary or permanent certificates of occupancy for all or part of a development until all applicable requirements are met.
- (.02) When a violation occurs, the Planning Director shall notify in writing the property owner and or known agent of the property owner of the violation. The notice shall set forth the nature of the violation and the necessary corrective action and shall specify the penalty for non-compliance and a reasonable date of compliance not to exceed

Section 4.027. **Saving Clause (Severability).**

thirty (30) days from the date of notice. An error in the name of the owner or use of a name other than the true owner or agent of such property shall not render void such notice. In such case the posted notice shall be deemed sufficient.

- (.03) If the violation has not been corrected, or a reasonable effort made to correct the violation within the time set forth in the notice, the Planning Director may cause the domestic water service to the property to be shut off as set by the Water Rates Ordinance.
- (.04) A violation of any provision of this Chapter is punishable, upon a first conviction, as a violation pursuant to Section 1.012 of the Wilsonville Code, and upon a subsequent conviction, as a Class C Misdemeanor pursuant to Section 1.011. In the case of a continuing offense, each day of any violation constitutes a separate offense.
[Amended Ord. #253, 2/21/84]
- (.05) The City Attorney, at the request of the City Council, shall institute any necessary legal proceedings to enforce the provisions of this Chapter.

Section 4.027. Saving Clause (Severability).

Should any section, clause or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid; each section, clause and provision hereof being declared severable.

Section 4.028. Fees.

Fees are for the purpose of defraying administrative costs and shall be governed by the provisions of a Resolution duly adopted by the Wilsonville City Council. The City Council may establish fees sufficient to cover all or part of the City's actual costs or actual average costs of processing applications.

Section 4.029. Zoning to be Consistent with Comprehensive Plan.

If a development, other than a short-term temporary use, is proposed on a parcel or lot which is not zoned in accordance with the Comprehensive Plan, the applicant must receive approval of a zone change prior to, or concurrently with the approval of an application for a Planned Development.

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

- (.01) Authority of Planning Director. The Planning Director shall have authority over the daily administration and enforcement of the provisions of this Chapter, including dealing with non-discretionary matters, and shall have specific authority as follows:
 - A. A Class I application shall be processed as a ministerial action without public hearing, shall not require public notice, and shall not be subject to appeal or call-up, except as noted below. Pursuant to Class I procedures set forth in Section 4.035, and upon finding that a proposal is consistent with the provisions of this

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

Code and any applicable Conditions of Approval, shall approve the following, with or without conditions:

1. Minor site clearing and grading, prior to the approval of a Site Development Plan, provided that:
 - a. no clearing or grading occurs within the Significant Resource Overlay Zone. Clearing or grading in the Significant Resource Overlay Zone shall require, at a minimum, approval of a Class II permit through the procedures specified below;
 - b. no clearing or grading occurs within twenty-five (25) feet of an area that has been identified by the City as a wetland;
 - c. not more than three (3) trees are proposed to be removed;
 - d. no fill or removal is proposed;
 - e. adequate measures are utilized to control erosion and runoff from the site and that the applicant will submit a final Site Development application within seven (7) days of submitting the minor site grading application. All grading activities require compliance with the requirements of the applicable building code and City Public Works standards.
2. Class I Sign Permits, and Temporary Sign Permits for thirty (30) days or less. [Amended by Ord. No. 704, 6/18/12.]
3. Architectural, landscape, tree removal, grading and building plans that substantially conform to the plans approved by the Development Review Board and/or City Council. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
4. Building permits for single family or two-family dwellings, and in the Village zone, row houses or apartments, meeting zoning requirements and located on lots that have been legally created. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters. [Amended by Ord 557 adopted 9/5/03].
5. Lot line adjustments, where none of the lots increase in area by fifty percent (50%) or more, subject to the standards specified in Section 4.233.
6. A temporary use permit for not more than thirty (30) days, subject to the following standards:
 - a. the applicant has the written permission of the property owner to use the site;
 - b. the proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property;
 - c. adequate parking is provided;
 - d. signs shall meet the standards of Section 4.156.09. A maximum of two signs, not exceeding a combined total of 24 square feet, are allowed; and
 - e. the proposed use has the approval of the Fire Marshal.

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

7. Determination that an existing use or structure is a non-conforming use or non-conforming structure, as defined in this Code. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the history of the property, choose to process such determinations through the Class II procedures below.
 8. Actions taken subject to Site Development Permits which have been approved by the appropriate decision-making body of the City.
 9. Final plats for condominiums, subdivisions, or partitions that are substantially the same as tentative plats approved by the City and which are submitted for review and signature prior to recordation with the appropriate county.
 10. Type A tree removal permits as provided in Section 4.600.
 11. Determination, based upon consultation with the City Attorney, whether a given development application is quasi-judicial or legislative. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the nature of the application, choose to process such determinations through the Class II procedures below.
 12. Expedited land divisions. Applications for expedited land divisions, as provided for in Section 4.232 of this Code and ORS Chapter 197 shall be processed without public hearing, and shall be subject to appeal through the special appeal procedures specified in Section 4.232.
 - a. Authority of Planning Director. The Planning Director shall have authority to review applications for expedited land divisions and to take action approving, approving with conditions, or denying such applications, based on findings of fact.
 - b. Tentative Plat Requirements for Expedited Land Divisions. Tentative plats and all other application requirements for expedited land divisions shall be the same as for other forms of land divisions, except as those requirements are specifically altered by the Oregon Revised Statutes.
 - c. Administrative Relief Not Available. In taking action on an application for an expedited land division, the Planning Director is not authorized to grant Variances or waivers from the requirements of the Code.
 - d. Residential Areas Only. As specified in ORS 197, expedited land divisions shall only be approved in areas zoned for residential use.
- B. A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing:
1. Minor alterations to existing buildings or site improvements of less than twenty-five percent (25%) of the previous floor area of a building, but not to exceed 1,250 square feet, or including the addition or removal of not more than ten (10) parking spaces. Minor modifications to approved Architectural and Site Development Plans may also be approved, subject to the same standards.

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

2. Residential accessory buildings or structures with less than one hundred and twenty (120) square feet of floor area located within the Willamette River Greenway Boundary pursuant to Section 4.500 and subject to the flood plain development standards of Section 4.172. Approval of such accessory structures in the Greenway shall be based on all of the following findings of fact:
 - a. The building or structure is located so that the maximum amount of landscape area, open space and/or vegetation is provided between the river and the building;
 - b. Public access to the river is preserved or is provided in accordance with an approved and adopted plan; and
 - c. That the change of use, intensification of use, or development will be directed away from the river to the greatest possible degree while allowing a reasonable use of the property.
3. Written interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022. The Planning Director may review and interpret the provisions and standards of Chapter 4 (Planning) of the Wilsonville Code upon receiving the required filing fee along with a specific written request. The Director shall publish and mail notice to affected parties and shall inform the Planning Commission and City Attorney prior to making a final written decision. The Director's letter and notice of decision shall be provided to the applicant, the Planning Commission, the City Council, and City Attorney and the notice shall clearly state that the decision may be appealed in accordance with Section 4.022 (Appeal Procedures). A log of such interpretations shall be kept in the office of the Planning Department for public review.
4. A permit to locate an accessory use on a lot adjacent to the site of the principal use.
5. Land partitions, other than expedited land divisions, pursuant to Section 4.210. Approval of land partitions shall be based on all of the following findings of fact:
 - a. The applicant has made a complete submittal of materials for the Director to review, as required in Section 4.210;
 - b. The proposed plan meets the requirements of the Code regarding minimum lot size and yard setbacks;
 - c. The approval will not impede or adversely affect the orderly development of any adjoining property or access thereto;
 - d. The public right-of-way bordering the lots or parcels will meet City standards;
 - e. Any required public dedications of land have been approved for acceptance by the City and will be recorded with the County prior to final plat approval;
 - f. Adequate easements are proposed where an existing utility line crosses or encroaches upon any other parcel to be created by the partition;

Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.

- g. All public utilities and facilities are available or can be provided prior to the issuance of any development permit for any lot or parcel; and
 - h. Roads extended or created as a result of the land division will meet City standards.
6. Decisions on the following:
- a. Lot line adjustments, where any of the lots increase by more than fifty percent (50%) in area, subject to the provisions of Section 4.233.
 - b. Temporary use permits for periods exceeding thirty (30) days. Temporary use permits may allow specific activities associated with the primary use or business located on the property for up to 120 days provided that:
 - i. the property owners have given written permission;
 - ii. no structure, sign or any other object shall exceed 20 feet in height;
 - iii. adequate parking is provided in designated spaces;
 - iv. signs are limited to a maximum of two and shall not exceed a total combined area of 24 square feet;
 - v. electrical and building permits are obtained as required;
 - vi. undue traffic congestion will not result and, if traffic congestion is expected, a traffic control plan is submitted along with the application that identifies the traffic control procedures that will be used;
 - vii. the activity and/or use shall not unduly interfere with motorists driving on adjacent roads and streets, including I-5; and
 - viii. public notice has been provided and the comments of interested parties have been considered in the action that has been taken.
7. Solar access permits, as specified in Section 4.137.3.

[Correction of numbering order for Section 4.030(.01)(B.) by Ordinance No. 538, 2/21/02.]

8. Class II Sign Permits. [Added by Ord. No. 704, 6/18/12.]

- C. Other specific actions or duties delegated by Planning Commission or Development Review Board Resolution, or by order of the Council, setting forth the review procedure guided by clear and objective standards for administration.
- D. Administrative Relief: In issuing the permits in subsection “B,” above, the Planning Director may grant limited relief in cases of hardship. The Director shall follow the Class II - Administrative Approval procedures to determine whether administrative relief shall be granted. If the Director receives a complete application, along with the required filing fee, and the request involves only the expansion or reduction by not more than 20 percent of one or more quantifiable provisions of yard, area, lot dimension, or parking requirements of the zone, the Director may approve the application, based upon findings of fact supported by evidence in the record. The Variance procedures and standards specified in Section 4.196 shall be used in determining whether administrative relief shall be granted.
- E. Emergency Situations: The Planning Director may review and approve any reasonable and necessary emergency measure, including the removal of trees and vegetation from the Willamette River Greenway, Significant Resource Overlay

Section 4.031. Authority of the Development Review Board.

Zone and wetlands, necessary for the safety and/or protection of persons or property. The standard shall be that the least amount of activity or disruption is used to provide the necessary protection to the property or to avert damage to the property. The Director may require restoration of landscaping, vegetation or soil to repair any damage resulting from enacting emergency protection measures.

- (.02) Authority of Community Development Director. The Community Development Director shall serve as the City's Flood Plain Administrator and shall have specific additional authority as follows:
- A. Reviewing proposed site development applications to assure compliance with the requirements of Section 4.172 (Flood Plain Regulations);
 - B. Reviewing proposed site development applications to determine whether sufficient information exists to waive the requirement of a traffic study.
 - C. Reviewing and determining the adequacy of security provided in lieu of improvements for a development.
 - D. Reviewing final plats for compliance with conditions of approval and City engineering standards.

Section 4.031. Authority of the Development Review Board.

- (.01) As specified in Chapter 2 of the Wilsonville Code and except as specified herein, the Board shall have authority to act on the following types of applications:
- A. Class II development applications referred to the Board by the Planning Director, as authorized in Section 4.030.
 - B. Call-ups or appeals of staff decisions or interpretations involving quasi-judicial applications or procedures, as authorized in Sections 4.022 and 4.172.
 - C. Review of tentative subdivision and condominium plats, as authorized in Section 4.210, other than those processed as expedited land divisions.
 - D. Conditional Use Permits, as authorized in Section 4.184.
 - E. Variances, as authorized in Section 4.196, other than those that are reviewed and acted upon by the Planning Director through Administrative Review processes.
 - F. Initial review of quasi-judicial applications for zone changes, as authorized in Section 4.197.
 - G. Initial review of quasi-judicial applications for amendments to one or maps in the Comprehensive Plan, as authorized in Section 4.198.
 - H. Site design review, as authorized in Section 4.400.
 - I. Review of Stage I and Stage II Planned Development applications.
 - J. Acceptance, rejection, or modification of traffic studies prepared for projects or developments. A traffic study prepared by the City's consultant shall not be rejected or modified by the Board unless substantial evidence exists in the record

Section 4.032. Authority of the Planning Commission.

to justify such action. If the Board rejects a traffic study prepared by the City's consultant, the fee paid by the applicant for that study shall be refunded.

- K. Initial review of requests for quasi-judicial annexations to the City of Wilsonville.
 - L. Street vacations, where a specific development application has been filed for the subject property. If no specific development application has been filed for the subject property, the vacation request shall be considered by the Planning Commission. Action of the Planning Commission or Board on a street vacation request shall be a recommendation to the City Council.
 - M. Class III Sign Permits, Master Sign Plans, and all sign permits and approvals not specifically authorized for administrative review or exempt from permitting requirements. [Added by Ord. No. 704, 6/18/12.]
- (.02) Once an application is determined or deemed to be complete pursuant to Section 4.011, it shall be scheduled for public hearing before the Development Review Board. The City shall provide public notice of the hearing as specified in Section 4.012.
- (.03) At the public hearing, the staff, any applicant, and interested persons may present information relevant to the policies, criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications or conditions and the reasons the person believes they are necessary for approval. The hearing body shall make a finding for each of the applicable policies, criteria and standards, including whether the proposal conforms to the Comprehensive Plan. The decision, including findings of the hearing body shall be adopted by Resolution, setting forth all Conditions of Approval and relevant time periods for compliance with said conditions.
- A. If the application is approved, that approval shall constitute a Development Permit when the applicant has complied with the other requirements of this Chapter or the applicant has filed with the Planning Director a written agreement to comply with all conditions of approval.
 - B. A decision of the Board may be appealed to the City Council by any party to the hearing in accordance with Section 4.022.

Section 4.032. Authority of the Planning Commission.

- (.01) As specified in Chapter 2 of the Wilsonville Code, the Planning Commission sits as an advisory body, making recommendations to the City Council on a variety of land use and transportation policy issues. The Commission also serves as the City's official Committee for Citizen Involvement and shall have the authority to review and make recommendations on the following types of applications or procedures:
- A. Legislative zone changes and changes to the text of Chapter 4 of this Code;
 - B. Legislative changes to, or adoption of new elements or sub-elements of, the Comprehensive Plan;
 - C. Initial review of requests for legislative annexations to the City of Wilsonville; and

Section 4.033. Authority of City Council.

- D. Street vacations, where no specific development application has been filed for the subject property. If a specific development application has been filed for the subject property, the vacation request shall be considered by the Development Review Board. Action of the Planning Commission or Board on a street vacation request shall be a recommendation to the City Council.

Section 4.033. Authority of City Council.

- (.01) Upon appeal, the City Council shall have final authority to act on all applications filed pursuant to Chapter 4 of the Wilsonville Code, with the exception of applications for expedited land divisions, as specified in Section 4.232. Additionally, the Council shall have final authority to interpret and enforce the procedures and standards set forth in this Chapter and shall have final decision-making authority on the following:
 - A. Applications for zone changes and changes to the text of Chapter 4, as authorized in Section 4.197.
 - B. Applications for amendments to, or adoption of new elements or sub-elements to, the maps or text of the Comprehensive Plan, as authorized in Section 4.198.
 - C. Appeals of any action taken by the Development Review Board, as authorized in Section 4.022.
 - D. Items called up from the Development Review Board by the City Council, as authorized in Section 4.022.
 - E. Consideration of the recommendations of the Planning Commission.
 - F. Review of requests for annexations to the City of Wilsonville.
 - G. Recommendations to the Metro Council on proposed changes to the portion of the Urban Growth Boundary adjoining Wilsonville.
 - H. Final actions on street vacation applications.
- (.02) When a decision or approval of the Council is required, the Planning Director shall schedule a public hearing pursuant to Section 4.013. At the public hearing the staff shall review the report of the Planning Commission or Development Review Board and provide other pertinent information, and interested persons shall be given the opportunity to present testimony and information relevant to the proposal and make final arguments why the matter shall not be approved and, if approved, the nature of the provisions to be contained in approving action.
- (.03) To the extent that a finding of fact is required, the Council shall make a finding for each of the criteria applicable and in doing so may sustain or reverse a finding of the Planning Commission or Development Review Board. The Council may delete, add or modify any of the provisions pertaining to the proposal or attach certain development or use conditions beyond those warranted for compliance with standards in granting an approval if the Council determines the conditions are appropriate to fulfill the criteria for approval.

Section 4.034. Application Requirements.

- (.04) To the extent that a policy is to be established or revised, the Council shall make its decision after information from the hearing has been received. The decision shall become effective by passage of an Ordinance, Resolution or order.
- (.05) Legislative enactments not restricted. Nothing in Sections 4.030 through 4.035 shall limit the authority of the Council to make changes in district designations or requirements as part of some more extensive revision of the Comprehensive Plan, an implementing ordinance or development standards or relieve a use or development from compliance with other applicable laws.

Section 4.034. Application Requirements.

Applications shall be reviewed as follows:

- (.01) A zone change shall be reviewed in accordance with the standards and procedures set forth in Section 4.197.
- (.02) Applications for Conditional Use Permits shall be reviewed in accordance with the standards and procedures set forth in Section 4.184.
- (.03) Applications for Variances shall be reviewed in accordance with the standards and procedures set forth in Section 4.196.
- (.04) Applications for Planned Development Approvals shall be reviewed in accordance with the standards and procedures set forth in Section 4.035.
- (.05) Applications for subdivisions, condominium divisions, lot line adjustments and land partitions shall be reviewed in accordance with the standards and procedures set forth in Section 4.210.
- (.06) Applications for Site Development Permits shall be reviewed in accordance with the standards and procedures set forth in Section 4.035:
- (.07) Applications for street vacations shall be reviewed in accordance with the standards and procedures set forth in ORS 271.
- (.08) Applications for development approvals within the Village zone shall be reviewed in accordance with the standards and procedures set forth in Section 4.125. [Added by Ord. 557, adopted 9/5/03]

Section 4.035. Site Development Permits.

- (.01) Procedures for Processing Site Development Permit.
 - A. Unless the matter is subject to a public hearing process for a land development permit, an application for a Site Development Permit shall be processed through a Class I or II procedure as set forth below.
 - B. When an application and proposed development plan is submitted, the Planning Director shall determine the appropriate procedure specified by the Code, together with the determination of affected departments, public agencies and property owners. Where there is a question as to the appropriate type of procedure, the

Section 4.035. Site Development Permits.

Director may elect to process the application as a Class II Administrative Review item.

- C. The Planning Director shall be responsible for the coordination of the Development Permit application and decision-making procedure and shall only issue a Development Permit to an applicant whose application and proposed development are found to be in compliance with all of the applicable provisions set forth in the Comprehensive Plan and Chapter 4 of this Code. Before issuing the Development Permit, the Director shall be provided with the detail required to establish full compliance with the requirements of this Code.
- (.02) Class I - Administrative Review. Consistent with the authority set forth in Section 4.030, a Class I application shall be processed without a public hearing or public notice, unless otherwise specifically required by this Code.
- A. Within thirty (30) days of the date of receiving a complete Class I application, pursuant to Section 4.011, the Director shall approve, conditionally approve, or deny the Development Permit. The decision of the Director shall be based upon the application, the evidence, comments from referral agencies, and approvals required by others. The Director shall notify the applicant in writing of the disposition of the application. The notice shall indicate the date that the decision will take effect and describe the right of appeal pursuant to Section 4.022.
 - B. The Development Permit shall be approved if applicable approvals by others have been granted and the proposed development otherwise conforms to the requirements of the Comprehensive Plan, and the remainder of Chapter 4.
 - 1. The Development Permit shall be denied if required approvals are not obtained or the application otherwise fails to comply with Code requirements. The notice shall describe the reason for denial.
 - 2. Upon taking action on a Class I Permit application, the Planning Director shall mail notice of the decision to the applicant. A decision of the Planning Director under this procedure may be appealed by the applicant in accordance with Sections 4.022 and 4.030. The hearing on the appeal shall be a review of the record supplemented by oral commentary relevant to the record presented on behalf of the applicant and the Planning Director.
- (.03) Class II - Administrative Review. Consistent with the authority set forth in Section 4.030, a Class II application shall be processed without a public hearing, except as determined appropriate by the Director.
- A. Within ten (10) calendar days of receiving a complete Class II Permit application, the Planning Director shall mail notice of the proposed development, pursuant to Section 4.012, to all property owners within 250 feet of the proposal. The notice shall summarize the standards and criteria that will be used to evaluate the application and shall be sent to the persons designated to receive notice by the relevant sections of this Code. The notice shall invite persons to submit information within ten (10) calendar days, relevant to the standards pertinent to the proposal and giving reasons why the application should or should not be approved or proposing conditions the person believes are necessary for approval

Section 4.035. Site Development Permits.

according to the standards. The notice shall also advise the person of the right to appeal the decision on the proposed development if the person's concerns are not resolved.

- B. If the Director anticipates that persons other than the applicant can be expected to question the application's compliance with the Comprehensive Plan or Development Standards, the Planning Director may initiate a public hearing.
- C. Within ten (10) calendar days of the final response date, the Director shall review any information received under Subsection "A", above, and make a final decision. The final decision and supporting findings shall be forwarded to the applicant, affected parties required to be notified, and the Development Review Board. The decision shall be based upon a determination of whether the application complies with the standards and criteria listed above for Class I Administrative Reviews and the following additional standards:
 - 1. The proposed development or use, including signage, is compatible with developments or uses permitted in the zone;
 - 2. The proposed development or use will not create a nuisance or result in a significant reduction in the value or usefulness of adjacent properties;
 - 3. If the proposed use is to be temporary, the length of time for which it is permitted shall be reasonable in terms of the purpose and nature of the use that is proposed;
 - 4. If the application involves a Variance, it shall be subject to the standards and criteria listed in Section 4.196;
 - 5. All of the relevant application filing requirements of Chapter 4 have been met.
- D. A decision of the Planning Director under a Class II procedure may be appealed by an affected party or may be called up for review by the Development Review Board, provided such action is taken by members of either panel of the Board as specified in Section 4.022.
- E. The Development Review Board, Planning Commission, or City Council may delegate specific actions or duties to be executed by the Planning Director. The body making the delegation shall specify the administrative review procedures that the Director is to follow in the process.

(.04) Site Development Permit Application.

- A. An application for a Site Development Permit shall consist of the materials specified as follows, plus any other materials required by this Code.
 - 1. A completed Permit application form, including identification of the project coordinator, or professional design team.
 - 2. An explanation of intent, stating the nature of the proposed development, reasons for the Permit request, pertinent background information, information required by the development standards and other information specified by the Director as required by other sections of this Code because of the type of development proposal or the area involved or that may have a bearing in determining the action to be taken. As noted in Section 4.014, the applicant

Section 4.035. Site Development Permits.

bears the burden of proving that the application meets all requirements of this Code.

3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all individuals or partners in ownership of the affected property.
4. Legal description of the property affected by the application.
5. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size and impact of the development on the community, public facilities and adjacent properties; and except as otherwise specified in this Code, shall be accompanied by the following information,
6. Unless specifically waived by the Director, the submittal shall include: ten (10) copies folded to 9" x 12" or (one (1) set of full-sized scaled drawings and nine (9) - 8 1/2" x 11" reductions of larger drawings) of the proposed Site Development Plan, including a small scale vicinity map and showing:
 - a. Streets, private drives, driveways, sidewalks, pedestrian ways, off-street parking, loading areas, garbage and recycling storage areas, power lines and railroad tracks, and shall indicate the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles.
 - b. The Site Plan shall indicate how utility service , including sanitary sewer, water and storm drainage, are to be provided. The Site Plan shall also show the following off-site features: distances from the subject property to any structures on adjacent properties and the locations and uses of streets, private drives, or driveways on adjacent properties.
 - c. Location and dimensions of structures, utilization of structures, including activities and the number of living units.
 - d. Major existing landscaping features including trees to be saved, and existing and proposed contours.
 - e. Relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, private drives, and open space.
 - f. Topographic information sufficient to determine direction and percentage of slopes, drainage patterns, and in environmentally sensitive areas, e.g., flood plain, forested areas, steep slopes or adjacent to stream banks, the elevations of all points used to determine contours shall be indicated and said points shall be given to true elevation above mean sea level as determined by the City Engineer. The base data shall be clearly indicated and shall be compatible to City datum, if bench marks are not adjacent. The following intervals shall be shown:
 - i. One (1) foot contours for slopes of up to five percent (5%);
 - ii. Two (2) foot contours for slopes of from six percent (6%) to twelve percent (12%);

Section 4.035. Site Development Permits.

- iii. Five (5) foot contours for slopes of from twelve percent (12%) to twenty percent (20%). These slopes shall be clearly identified, and
- iv. Ten (10) foot contours for slopes exceeding twenty percent (20%).
- g. A tabulation of land area, in square feet, devoted to various uses such as building area (gross and net rentable), parking and paving coverage, landscaped area coverage and average residential density per net acre.
- h. An application fee as set by the City Council.
- i. If there are trees in the development area, an arborist's report, as required in Section 4.600. This report shall also show the impacts of grading on the trees.
- j. A list of all owners of property within 250 feet of the subject property, printed on label format. The list is to be based on the latest available information from the County Assessor.

[Section 4.035(.04) amended by Ord. 682, 9/9/10]

- (.05) Complete Submittal Required. Application materials shall be submitted to the Planning Director who shall have the date of submission indicated on each copy submitted. Within thirty (30) calendar days from the date of submission, the Director shall determine whether an application is complete. An application is not complete unless accompanied by a traffic study, as prescribed by the City Engineer; except in cases where the requirement of a traffic study has been specifically waived by the Community Development Director.
- A. If the Director determines that the application is incomplete or otherwise does not conform to the provisions of this Code, the applicant shall immediately be notified in writing, conveying an explanation and a submittal deadline for completion or correction of the application. If the applicant fails or refuses to provide the necessary information, the application will be processed as specified in Section 4.011 (How Applications Are Processed) in order to assure that statutory time limits are met.
 - B. If an application is determined to be complete and in conformance with the provisions of this Ordinance, the Director shall accept it and note the date of acceptance on the application form. The Director shall then schedule the appropriate review and notify the applicant of the date of the final decision or hearing as set forth in this Chapter.
 - C. Materials submitted to the Planning Department staff after the preparation of the staff report shall be date-stamped and passed on to the appropriate decision makers. If there is insufficient time for the staff to prepare an analysis of such information, the decision-makers may choose to postpone action until such an analysis can be completed. If statutory time limits for action on the application preclude postponement, the decision makers may request a summary of the new information from the party presenting it. If information is received too late to be adequately evaluated within the legal time limits for action on the application, the decision-makers shall so state and shall make the decision, indicating within the adopted findings of fact the extent to which that information was considered in rendering the decision.

Section 4.035. Site Development Permits.

- D. Written testimony that is sent via mail, facsimile, or computer and received by the City Recorder or the Recorder's designee prior to a public hearing shall be included in the record and considered to be originals, provided the document bears the name of the person testifying. Persons sending such documents shall be responsible for verifying that the documents have been received by the intended recipient on City staff. The City will make all reasonable attempts to convert testimony sent by telecommunication to paper format but bears no responsibility for doing so.