

**Toledo City Hall  
Council Chambers  
206 N Main St. Toledo OR  
March 12, 2025  
6:00 pm**

## AGENDA

### CITY OF TOLEDO CITY COUNCIL AND PLANNING COMMISSION JOINT WORK SESSION

**The Planning Commission/City Council will hold an in-person meeting in City Hall Council Chambers.** Participants can also attend the meeting through the Zoom video meeting platform. Email [planning@cityoftoledo.org](mailto:planning@cityoftoledo.org) or call 541-336-2247 ext. 2130 to receive the meeting login information. Participants can also visit [www.cityoftoledo.org/meetings](http://www.cityoftoledo.org/meetings) for meeting details.

1. CALL TO ORDER AND ROLL CALL
2. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
3. DISCUSSION AND INFORMATION ITEMS:
  - a. Land Division Code Project Review
  - b. Housing Code/HB 3395 Code Project Review
  - c. Parks Master Plan
4. STAFF COMMENTS
5. COUNCILOR AND COMMISSIONER COMMENTS
6. ADJOURNMENT

\* Comments submitted in advance are preferable. Comments may be submitted by phone at 541-336-2247 extension 2130 or by email to [planning@cityoftoledo.org](mailto:planning@cityoftoledo.org). The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodation for persons with disabilities should be made at least 48 hours in advance of the meeting by calling the Toledo Planning Department at 541-336-2247.



1400 Queen Ave SE • Suite 201 • Albany, OR 97322  
(541) 967-8630 • FAX (541) 967-6123

---

## MEMORANDUM

**DATE:** March 5, 2025  
**TO:** Toledo Planning Commission and City Council  
**FROM:** Justin Peterson, OCWCOG  
**RE:** City of Toledo History of Housing Code Updates and Current Updates

---

The City of Toledo has made several updates to the Development Code to support increased housing and is interested in additional housing updates. The city has a limited number of housing units that are developed each year and wants to encourage additional housing development. \*Note that the city only has two residential zones.

Staff recognizes that zoning is only one piece of the housing puzzle. Other recommendations beyond the development code are likely required.

### **Recent Housing Developments (not single-family)**

The city has approved several successful housing developments beyond single-family housing which has historically been the predominant housing type in the city.

- 11 Unit Affordable Housing complex – Completed in 2024
- Tri-Plex in the Commercial Zone - Expected Completion Spring 2025
- Quad-Plex in the Commercial Zone – Completed 2022
- Duplex – Completed 2025

### **Accessory Dwelling Unit (ADU) Updates – 2019**

The ADU standards were updated in compliance with House Bill (HB) 2001. The Department of Land Conservation and Development (DLCD) model code was used as a template. The Single-Family Residential (R-S) zone allows for one attached or detached ADU. The General Residential zone allows for two ADUS (one detached and one attached).

### **Housing Code Updates – 2021**

The City Council was supportive of the 2019 ADU updates and desired additional housing code updates to support housing. The 2021 updates included:

- Definition updates,
  - Allowing duplexes in the R-S and R-G zone as outright permitted uses,
  - Allowing cottage clusters outright in the R-G zone and as a conditional use in the R-S zone,
  - Removing the 1,000 square foot size requirement for single-family homes in the R-S zone,
  - Removing the garage or carport requirement in the R-S zone,
  - Increasing the allowed lot coverage,
  - Reducing lot size requirements,
-



1400 Queen Ave SE • Suite 201 • Albany, OR 97322  
(541) 967-8630 • FAX (541) 967-6123

---

- Allowing cottage clusters in the commercial zone as a conditional use,
- Increasing flexibility for housing in the Main Street Overlay (downtown), and
- Updates to the Comprehensive Plan policies.

Based on recent permits since 2021 staff believes the code updates have supported housing development in the city. Specifically, the 1,000 square foot requirement and carport/garage requirement being removed from the development code.

### **Housing Capacity Analysis – 2022**

The City of Toledo completed a Housing Capacity Analysis in 2022 with ECONorthwest as the consultant. The analysis found that the city has enough land within the UGB for the next 20 years. The report is available on the website and included housing recommendations.

The city has some interest in exploring a UGB swap (pending the completion of a study). In addition, infrastructure is a challenge for developers. Not many large lots remain within the city and the lots that do may not have adequate infrastructure.

### **Comprehensive Plan Update – 2023**

A comprehensive plan update was completed at the end of 2023 that included some minor edits to the housing chapter.

### **Current Efforts**

Staff are currently working with the Planning Commission to update the Partition and Subdivision standards. This includes making Partitions a Type II procedure and allowing for shared driveways. The goal is to complete these code updates by early summer. In addition, we are completing other needed updates at the same time.

**Proposed code updates are available on the website ([www.cityoftoledo.org/planning](http://www.cityoftoledo.org/planning)) and staff will provide a detailed presentation at the meeting.**

---

# Toledo Municipal Code

## Title 17

### ZONING

#### Chapter 17.04 GENERAL PROVISIONS

##### 17.04.010 Title.

This title shall be known as the "Toledo Zoning Ordinance."

##### 17.04.020 Definitions.

- A. As used in this title any gender reference refers to all genders and the singular includes the plural and the plural includes the singular.
- B. The following words and phrases, unless the context otherwise requires, shall mean:

"Abut" means contiguous to or immediately joining. For example, two lots with a common property line are considered to be abutting.

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

"Accessory dwelling unit" means an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-~~family-unit~~ dwelling.

"Accessory structure or use" means a structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use, including a home occupation. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

"Alley" means a public way of not over twenty (20) feet wide providing a secondary means of access to private property.

"Alter" means any change, addition, or modification in the construction of a building or structure.

"Apartment house." See Dwelling, ~~multi-familyunit multiple~~.

"Assembly plants" refers to establishments, which produce finished or semi-finished products from manmade, secondary or partially completed materials. Products may be for wholesale trade, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on-site, but if done, such uses may not exceed twenty-five (25) percent of the total floor area of the building or buildings in which the assembly plant operates. Assembly plants will be fully enclosed and may include office space as an accessory use.

"Auto body shop" means an establishment primarily engaged in the repair of automotive tops,

bodies and interiors, or automotive painting and refinishing.

"Auto wrecking yard" means an area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers, or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts or the storage of motor vehicles unable to be moved under the power of the vehicle.

"Automobile service station" means a building or portion thereof and land used for dispensing automobile fuel, oil, accessories, and minor vehicle repairs. When the dispensing sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

~~"Babysitting" means the provision of child care to a child in the child's own home during the temporary absence of the child's parents.~~

"Bed and breakfast facility" means a single-family-unit dwelling or part thereof occupied by the proprietor with no more than five guest rooms and where traveler's accommodation and meals are provided for a fee on a daily or weekly room rental basis, not to exceed thirty (30) consecutive days.

"Beverage production" refers to manufacturing facilities including bottling plants, breweries, coffee roasting, soft drink production and wineries. This does not include milk processing or production. Accessory uses may include an eating or drinking establishment or retail sales of beverages produced on-site.

"Boarding, lodging, or rooming house" means a building where lodging with or without meals is provided for compensation for not less than five nor more than ten (10) guests.

"Building" means a structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

"Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

1. A mechanical extraction process; or
2. A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol.

"Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

"Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

1. A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
2. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide if the process uses heat or pressure; or
3. Any other process identified by the state liquor control commission, in consultation with the authority by rule.

"Cannabinoid product" means a cannabinoid edible and any other product intended for human

consumption or use, including a product intended to be applied to the skin or hair that contains cannabinoids or dried marijuana leaves or flowers.

"Child" means a human being under thirteen (13) years of age.

"Child day care center" means a facility which provides child care and/or educational services prior to the first grade level for thirteen (13) or more children, or for twelve (12) or fewer children in a facility other than the single-family-unit residence of the provider and complies with the rules and regulations established by the State of Oregon Children and Families Services Division.

"Child day care home" means a facility which provides child care and/or educational services prior to the first grade level for twelve (12) or fewer children in the single-family-unit residence of the provider. If the Child Day Care Home provides service in compliance with the Oregon Children and Families Services Division, child care ratios such that no employees are required, and the facility is located in a residential zone, the Child Day Care Home shall be regulated as a Home Occupation. Child Day Care Homes of all sizes shall comply with the rules and regulations established by the State of Oregon Children and Families Services Division.

"City" means the city of Toledo, Oregon.

"City manager" means the city manager of the city or designee(s).

"City street" means a public right-of-way which has been dedicated to the public and accepted by the city and created to provide ingress or egress to one or more lots, parcels, areas, or tracts of land, including the terms "street," "highway," "lane," "avenue," "road," or similar designations. For the purpose of Title 17, the term "city street" includes improved public roadways dedicated to the public and accepted by either Lincoln County or the Oregon Department of Transportation. They may or may not be maintained.

"Clear vision area" means a triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding 2.5 feet in height measured from the top of the curb.

"Commission" means the city planning commission of the city of Toledo, Oregon.

"Common open space" means an area improved for recreational use or gardening that all owners in the cottage cluster own and maintain in common through a homeowners' association, condominium association, or similar mechanism.

"Comprehensive land use plan" means the plan adopted by the city to serve as a guide to the orderly growth, development, and improvement of the city, including any adopted written text with goals and policies, a diagrammatic map of desired land use allocations, and any amendments to such text and map.

"Conditional use" means a use that is generally in line with the purpose of the zone but which

could, if not reviewed, have a significant adverse impact on other properties or uses within the zone beyond that of the uses permitted outright.

~~"Condominium" means a form of ownership where buildings are subdivided into individual units such that each owner owns only the individual unit and the air space occupied by it. The portion of land upon which the building is situated, the surrounding grounds, party, walls, corridors, and services other than those within independent units (such as electrical, water, gas, sewer, etc.) become joint responsibilities of all the owners as tenants in common.~~

“Condominium” means a type of residential development utilizing zero lot lines, individual ownerships of units and common ownership of open space and other facilities, and which are regulated, in part by O.R.S. Chapter 100.

"Cottage" means a detached, single-~~family-unit~~ dwelling unit that is part of a cottage housing development and that shall enclose an area of not more than twelve hundred (1,200) square feet.

"Cottage Cluster" means a group of three (3) to twelve (12) cottages, arranged around a common open space.

"Cultivation" or "cultivate" means:

1. All phases of growth of marijuana from seed to harvest; or
2. Preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a marijuana-infused product.

"Custom manufacturing" means manufacturing of individual, or in small lots, items made according to personal order.

"Development" means any human-induced change to improved or unimproved real estate, including, but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, and drilling operations. Also includes any action or use on or applied to real property.

"Drive-in use" means an establishment that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles. Restaurant, take-out, or drive-in is separately defined.

~~"Dwelling, multi-family" means a building containing two or more dwelling units excluding accessory dwelling units.~~

“Dwelling Unit – Multiple” means two or more dwelling units on one property or development site, attached or detached, including a building or collection of buildings.

~~"Dwelling, single-family" means a detached building containing one dwelling unit.~~

“Dwelling – Single Unit Detached” means a single detached building containing one dwelling unit on a lot. This includes prefabricated dwelling units and modular homes. Dwelling units on individual lots that are part of a cottage cluster are not single-dwelling unit detached for the purposes of this Code.

~~"Dwelling unit" means one or more rooms designed for occupancy by one family only and not having more than one cooking facility, but not including recreational vehicles, hotels, motels, boarding houses, etc.~~

- ~~• "Duplex" means a detached building containing two dwelling units.~~
- ~~• "Triplex" means a detached building containing three dwelling units.~~
- ~~• "Fourplex" means a detached building containing four dwelling units.~~
- ~~• "Multi-plex" means a building containing more than four dwelling units.~~

"Dwelling Unit" A building, or a portion thereof that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. (Source: DLCD Model code)

"Duplex" means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.

"Triplex" means a single detached building containing three dwelling units. All dwelling units are located on a single lot, except where a land division has been approved.

"Fourplex" means a single detached building containing four dwelling units. All dwelling units are located on a single lot, except where a land division has been approved.

"Easement" means the grant of a right-of-way use for a specific purpose, such as an easement for utility purposes across a parcel of land.

"Eating or drinking establishments" means retail establishments selling food and drink for consumption on the premise, including lunch counters and refreshment stands selling prepared foods and drinks for immediate on-site consumption. This term includes restaurants where food and drink are prepared, served, and consumed primarily within the principal building. It also includes a retail food establishment which is any fixed facility in which food or drink is offered or prepared primarily for retail trade.

"Employees" means all persons, including proprietors, working on the premises.

~~"Family" means two or more persons related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit. A family is also a group of not more than five persons who need not be related by blood, marriage, adoption, or legal guardianship, living in a dwelling unit. A single person living alone shall be recognized as a family.~~

"Floor area" means the area included in surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

"Food production" refers to manufacturing establishments producing or processing foods for human consumption, including: bakery products, candy and confectionary products, catering services separate from stores or restaurants, dairy products, fruit and vegetable canning, preserving and related processing, grain mill products and by-products, seafood processing and canning, and miscellaneous food item preparation from raw products. This does not include: meat packing plants other than seafood processing and canning, slaughterhouses or rendering plants. May include an eating or drinking establishment as an accessory use.

"Garage, parking" means a structure, or part of a structure, used to store cars primarily on a short term basis, with or without a fee.

"Garage, private" means an accessory building or portion of a main building, including a carport, which is used for the parking or storage of privately owned vehicles, boats, and trailers of the person resident upon the premises and in which no business, service, or industry related to motor vehicles is carried on.

"Garage, public" means a public or commercial garage is a building or part of a building or space used for business or commercial purposes used principally for the repair, equipping, and care of motor vehicles and where such vehicles may be parked or stored.

"Grade (ground level)" means the average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five feet of a sidewalk, the aboveground level should be measured at the sidewalk.

"Height of building" means the vertical distance from the grade to the highest point of the roof.

"Historical resources" means a district, site, structure, or artifact which has a significant relationship to events or conditions of the human past.

"Home occupation" means an occupation carried on within a dwelling by ~~members of the family residents~~ occupying the dwelling with no servant, employee, or other persons being engaged at the home occupation site, provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance or manifest any characteristic of a business in the ordinary meaning of the term unless specifically authorized by the zoning code or infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A city of Toledo business license is required for all home occupations.

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

"Hostel" means a single building containing a single dwelling unit where four ~~unrelated~~ individuals but not more than twenty (20) ~~unrelated~~ individuals may live for not more than thirty (30) continuous days. A hostel may be occupied and managed by a ~~family manager~~ in addition to the four to twenty (20) persons renting facilities.

~~"Hotel/motel" means a building in which lodging is provided to the public for compensation, with or without common entrances, with or without cooking facilities, and where more than seventy five (75) percent of the lodging rooms are for rent to transient guests for a continuous period of less than thirty (30) days.~~

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings with six or more guest rooms that provide lodging to the public for compensation. (Source City of Albany, updated definition)

"Impact" means the consequences of a course of action; the effect of a goal, guideline, plan, or decision.

"Kennel" means a lot or building used for a business or residence in which four or more dogs, cats, or other domestic animals at least four months of age are kept and where such animals are kept commercially for board, propagation, training, or sale. A kennel does not include an agricultural use such as cattle grazing on land in the natural resource zone.

"Landscaping" means any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains, or the like. Landscaping also includes the preservation and protection of existing vegetation. Bark, wood chips, rock or other similar material surrounding plants can also be considered a part of the landscaping.

"Limited manufacturing" refers to processing and manufacturing operations which are fully enclosed and are primarily engaged in the on-site production of the following:

1. Hand-manufactured goods involving the use of hand tools or domestic mechanical equipment. Products may be finished or semi-finished and are made individually or in small lots. Typical products include: art, sculpture, pottery, jewelry, toys, candles, woodwork, custom textile products and similar artisan goods. Retail sale or display of goods produced on-site may be included as a subordinate accessory use.
2. Manufacturing or assembly of precision items or professional instruments. Typical products include: measuring, analyzing or controlling instruments, electronic components, medical and dental supplies, computers and musical instruments, commercial fishing gear manufacturing, including but not limited to; crab pot manufacturing, net and ground gear manufacturing/construction. Retail sale or display of goods produced on-site may be included as an accessory use.

"Live Work Accessory Dwelling Unit" means an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a commercial use with an active business license.

"Loading space" means an off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or material.

"Lot" means a unit of land that is created by a partition or a subdivision of land defined by the Toledo land division ordinance.

Lot of Record: A lot shown as part of a recorded subdivision or approved partition map; or any parcel of land described by metes and bounds in a recorded deed, record of survey, or other appropriate document recorded in the Office of the County Recorder prior to the adoption of the original Partition and Subdivision Ordinance. No lot or parcel of land created without complying with the provisions of the Land Division Requirements of the State of Oregon and the City Subdivision Ordinance is recognized as a lot of record.

"Lot area" means the total horizontal area within the lot lines of a lot.

"Lot, corner" means a lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one hundred thirty-five (135) degrees.

"Lot, frontage" means the portion of the lot nearest the street and from which access is obtained.

"Lot, interior" means a lot other than a corner lot.

"Lot line" means the property line bounding a lot.

"Lot line, front" means in the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, the owner shall choose the lot line, approved by staff, which is along a street other than an alley.

"Lot line, rear" means a lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.

"Lot line, side" means any lot line not a front or rear lot line.

"Low intensity recreation" means recreational facilities with limited infrastructure and predominant open space. Examples include: bike and pedestrian paths, viewpoints and fishing areas. Low intensity recreation does not include: campgrounds, playgrounds, sports fields, basketball courts or other high-use facilities.

"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 applicable non-elevation design requirements of this ordinance.

"Machine shops and fabrication" refers to establishments primarily engaged in the assembly of metal parts, including blacksmith and welding shops, sheet metal shops, machine shops and boiler shops. Products may include: metal duct work, tanks, towers, cabinets and enclosures, metal doors and gates and similar products.

~~"Manufactured dwelling" means:~~

~~(a) — A residential trailer, mobile home or manufactured home.~~

~~(b) — "Manufactured dwelling" does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code, the Low Rise Residential Dwelling Code adopted pursuant to ORS 455.100 (Duties of director) to 455.450 (Prohibited acts) and 455.610 (Low Rise Residential Dwelling Code) to 455.630 (Enforcement) or the Small Home Specialty Code adopted under section 2, chapter 401, Oregon Laws 2019.~~

~~"Manufactured home park" means any place where four or more manufactured dwellings are located within five hundred (500) feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space for manufactured homes for a charge or fee paid or to be paid for the rental, lease or use of the facilities, or to offer free space in connection with securing the trade or patronage of such uses.~~

~~"Manufactured Dwelling" means~~

~~1. Manufactured Home - A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.~~

~~2. Mobile Home - A structure constructed for movement on the public highways that has~~

sleeping, cooking and plumbing facilities that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

3. Residential (Travel) Trailer - A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

"Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

"Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

"Marijuana laboratory" means a laboratory that performs testing, research or development of recreational marijuana or marijuana items for producer, processor, wholesaler, or retail licensees.

"Marijuana processor" means a recreational marijuana processor who holds a processor license issued by the state liquor control commission, to process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling, for the premises at which marijuana items are processed.

"Marijuana producer" means a recreational marijuana producer who holds a production license issued by the state liquor control commission, to manufacture, plant, cultivate, grow or harvest of marijuana, for the premises at which the marijuana is produced.

"Marijuana retailer" means a recreational marijuana retailer who holds a retail license issued by the state liquor control commission, for retail sale of marijuana or marijuana items, for the premises at which marijuana items are sold.

"Marijuana wholesaler" means a recreational marijuana wholesaler who holds a wholesale license issued by the state liquor control commission, for purchase of marijuana items for resale to a person other than a consumer, for the premises at which marijuana items are received, kept, stored or delivered.

"Medical clinic" means a building or structure whose primary purpose is housing practitioners for the medical and dental treatment of persons.

"Medical marijuana dispensary facility" means a medical marijuana facility registered by the Oregon Health Authority under ORS 475.300 to ORS 475.346 and that sells, distributes, transmits, gives, dispenses or otherwise provides medical marijuana to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

"Medical marijuana grow site" means a specific location registered by the Oregon Health Authority and used by a grower to produce marijuana for medical use by a specific patient.

"Mini-storage" means buildings or other structures with multiple, self-contained units which are intended to be rented or leased to individual parties for the purpose of small-scale storage or

sheltering of personal goods, household items, vehicles, and similar items of personal property.

“Middle housing” means the following housing types: duplexes, triplexes, fourplexes, townhouses, and cottage clusters.

“Modular Home” means a structure 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 Code) and designed to be transported to a site for installation and/or assembly of modular components to form a permanent structure.

"Nonconforming structure or use" means a lawful structure or use at the time this code or any amendment to it becomes effective and which does not conform to the requirements of the zone in which it is located. A nonconforming structure and a nonconforming use may be present simultaneously on one piece of real property.

"Parcel" means a tax lot created by the division of land.

"Parking lot, public" means an open, off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge, or as accommodation for clients and customers.

"Persons" means every natural person, firm, partnership, association, or corporation.

"Planned development" means the development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which allows flexibility in lot size, bulk or type of dwelling, density, lot coverage, or required open space to the regulations otherwise required by the city of Toledo zoning ordinance. It is intended to encourage variety in the development pattern of the city and to encourage creative approaches to land development. It is further intended to provide for the general well-being of future inhabitants and the surrounding neighborhood by planning around geologic hazards, providing a safe and efficient transportation network, assuring privacy and open space, maintaining health and safety and enhancing the overall livability of the area.

“Prefabricated Dwelling Unit” means A building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site and is used as a dwelling unit. A prefabricated dwelling unit does not mean a “manufactured dwelling” (a dwelling built to federal HUD standards) as defined in ORS 446.003, or a “small home” (400 square feet or less built to a residential code) as defined in ORS 455.616 (referenced as “Section 2, Chapter 401, Oregon Laws 2019” or House Bill 2423 (2019)).

"Porch/deck, unenclosed" means an unenclosed porch/deck that does not contain additional walls excluding the house wall and is characterized by open railing or enclosed railing not to exceed forty-five (45) inches in height.

"Processing and manufacturing operations" refers to operations primarily engaged in the mechanical or chemical transformation of materials or substances into new products.

"Public right-of-way" means an easement for access dedicated to the public, the city, or other governmental entity and accepted as such which may or may not be developed and maintained

by the city of Toledo.

"Public safety services" means a safety service such as fire suppression, police protection, or emergency medical response, intended as a service to the public that may be operated by a governmental body/agency or a private corporation.

"Public use" means services, structures or facilities that enhance the livability and quality of life, including physical, social and economic welfare, for the general public, or the proposed use provides for the use, protection, preservation, conservation, or enhancement of parks, natural areas, and similar areas in a manner that meets community needs for a wide range of passive or active recreational uses. Examples of a "public use" includes parks, camp grounds, playgrounds, sports fields, basketball courts, open spaces, and other areas used for low intensity recreation, structures to provide public safety services, water storage tanks, water or wastewater treatment facilities, utility substations, communication services, schools, and public transportation facilities.

"Recreational marijuana" means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, state law, and any other applicable law.

"Recreational marijuana facility" means any recreational marijuana related facility, including marijuana producer, marijuana processor, marijuana wholesaler, marijuana retailer, and marijuana laboratory.

"Recreational vehicle" means a vehicular-type living unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Type of recreational vehicles include, but are not limited to, travel trailer, camping trailer, camper, camping van, and motor home.

"Recreational vehicle park" means a plot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles as temporary living quarters for recreation or vacation purposes (not more than thirty (30) days out of any sixty (60) day period).

"Religious use/institution" means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses commonly associated with a religious use or use of a building such as concerts, holiday related sales, bake sales, rummage sales, meetings, religious instruction, community related events, and other such uses.

"Research and development (R&D)" refers to facilities exclusively used for research, development and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses. Such uses may be located individually, in a business park, or in a flex-space. R&D uses will be fully enclosed, may include office space as an accessory use, and have minimal transportation system impacts.

~~"Residential care facility" means a facility licensed under the authority of the Department of~~

~~Human Resources (DHR) under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen (15) individuals who need not be related. Staff required to meet DHR licensing requirements shall not be counted in the number of facility residents, and need not be related to each other.~~

“Residential Care Facility” means any private or public institution or facility maintained and operated for the care, boarding, housing, training, or rehabilitation of six or more physically, mentally, or socially handicapped or delinquent, elderly, or drug or alcohol dependent persons in one or more buildings on contiguous properties. See ORS Chapter 443.

~~"Residential care home" means a residence, licensed under the authority of the Department of Human Resources (DHR) under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen (15) individuals who need not be related. Staff required to meet DHR licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.~~

“Residential Care Home or Group Home” means any privately-owned or public institution-owned home that is maintained and operated for the care, boarding, housing, or training of five or fewer physically, mentally, or socially handicapped or delinquent, elderly or dependent persons by a person who is not the parent or guardian of, and who is not related by blood, marriage, or legal adoption of such persons. These homes are regulated the same as single-dwelling unit detached. See Oregon Revised Statutes Chapter 443. (Source City of Albany, Updated definition)

"Residency hotel" means a building or group of buildings in which lodging, with or without cooking facilities, is available to owners or transient guests for rent, trade, exchange, or other compensation for a period of less than thirty (30) days. Tenancy will be less than from month-to-month. More than twenty-five (25) percent of the lodging rooms or units may be used or are available for residential use or rental for residential purposes on a month-to-month tenancy or a lease or rental agreement for periods of thirty (30) days or more.

"Restaurant, take-out or drive-in" means an establishment where food and/or beverages are sold in a form ready for consumption which takes place or is designed to take place outside the confines of the restaurant building or site, and where ordering and pickup of food takes place from a vehicle.

"Right-of-way" means a strip of land within which there is located a passageway conveyed for a specific purpose.

"Salvage/junk yard" means any property used by a business that deals in buying and selling old motor vehicles, old motor vehicle parts, machinery or parts thereof, appliances, or parts thereof, scrap metal, or other discarded material.

"Scrap metal and transfer facility" means a place/structure where metal goods and materials which are used, worn out, cast out, or discarded are stored on a short-term basis for the purpose of reclamation and/or recycling of the metal before transfer to another facility.

"School" means any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

"Security dwelling" means a single-family-unit dwelling or a dwelling unit as part of a building which is an accessory use to the main use of the property and which is either located on the same lot with the main use or as part of the main building to provide housing for security personnel, caretakers, employees, and/or owners.

"Setback" means the minimum allowable horizontal distance from a given line of reference (usually a property line) to the nearest foundation line or vertical wall, whichever is closer, of a structure. An architectural feature of the structure shall not project more than two feet into the required setback. Where architectural features project more than two feet into the allowable setback area, the distance shall be measured from the reference line to the architectural feature.

"Sign" means a presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors, publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of advertising. This includes the board, metal, or surface upon which the sign is painted, included, or attached.

"Single-Room Occupancy (SRO) Development" means a building with no less than four attached but separate single room occupancy units and shared kitchen or food preparation facility(ies). Sanitary facilities (bathrooms) may be shared or may be provided within or between SRO units. See definition for a Single Room Occupancy Unit.

"Single Room Occupancy (SRO) Unit" means an Area within an SRO Development that is independently rented and lockable and provides living and sleeping space for the exclusive use of the unit occupant(s). The living and sleeping space may or may not include sanitary facilities. See definitions for SRO Development.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement, cellar, or garage is more than six feet above grade, such basement, cellar, or garage shall be considered a story.

"Street" means the entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. Street shall include the terms "road," "highway," "lane," "place," "avenue," "court," "way," or other similar designations.

"Structure" means a building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground.

"Structural alteration" means any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, or girders, or roof.

"Tower" means a structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications.

"Trailer, house" means a building or single-wide vehicle originally designed or presently

constructed to be used as a dwelling or lodging place for recreational uses and to be movable from place to place over streets.

"Trailer park" means a plot of ground upon which one or more house trailers occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodations.

"Transportation facilities" means a physical facility used to move people and goods from one place to another (i.e., streets, sidewalks, pathways, bike lanes, transit stations, bus stops, etc.).

"Transportation improvements" means a transportation facility improvement to include, but are not limited to:

1. Normal operation, maintenance, repair, and preservation activities associated with existing transportation facilities.
2. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
3. Projects specifically identified in the city's adopted Transportation System Plan.
4. Landscaping as part of a transportation facility.
5. Emergency measures necessary for the safety and protection of property or the public.
6. Construction of a street or road as part of an approved subdivision or partition consistent with the city's adopted Transportation System Plan.
7. Construction of a street or road as part of an approved subdivision or land partition approved in accordance with the applicable land division ordinance.

"Truck and car repair and service - minor" means the general repair and servicing of automobiles and passenger trucks (of eleven thousand (11,000) lbs. gvw or less) excluding industrial vehicles.

"Truck and car repair and service - major" means the general repair and servicing of automobiles and trucks including industrial vehicles.

"Use" means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

"Visual screening" means a barrier, natural or man-made, that blocks the view into a property.

"Water-dependent development" means development activity that can only be carried out on, in, or adjacent to the water because the use requires access to the water body for transportation, recreation, energy production or source of water.

"Water-related development" means a use which derives a cost savings advantage, not associated with land costs or rent, from a location on or near the water or a use whose location on or near the water is essential to the functioning of adjacent water-dependent uses.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance. FRONT: A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building. REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building. SIDE: A yard between a building and the side lot lines measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the building.

**17.04.030 Compliance with ordinance (Title) provisions and maintenance of minimum requirements.**

- A. No building, structure, or premise shall hereafter be used or occupied and no building or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ordinance.
- B. Each use permitted either outright or conditionally in any of the zones in this ordinance includes the accessory uses which attach to that main use, and both the main use and all accessory uses shall be considered in any application or proceeding under this ordinance.
- C. No lot area, yard, or other open space, or required off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced in area, dimension, or size below the minimum required by this ordinance, or shall any lot area, yard, or other open space or off-street parking or loading area which is required by this ordinance for one use be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use.

**17.04.040 Classification of zones.**

For the purposes of this ordinance the city is divided into zones designated as follows:

Zone	Abbreviated Designation
<del>Single-Family Standard</del> Residential	R-S
General Residential	R-G
Commercial	C
Light Industrial	L-I
Industrial	I
Natural Resource	N-R
Water-Dependent	W-D
Public Lands	P-L

**17.04.050 Zoning map, boundaries, designation after annexation and planned developments.**

- A. The location and boundaries of the zones designated in Section 17.04.040 are established as shown on the map entitled "Comprehensive Plan and Zoning Map of the City of Toledo" dated with the date of adoption and signed by the mayor and city recorder and hereafter referred to as the "zoning map."
- B. The signed copy of the zoning map shall be maintained on file in the office of the city manager and is hereby made a part of this ordinance.
- C. Unless otherwise specified, zone boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedure for a zone change shall be followed.
- D. Territory annexed to the city shall be given a zone designation in compliance with the Comprehensive Land Use Plan designation of the property. Such change may be entirely

or partially carried out as a part of the annexation proceedings. The zone designation under the zoning ordinance of Lincoln County shall apply until changed by the city. If the city council finds it is important to the protection or implementation of city policies, with notice and opportunity to be heard, interim regulations may be applied in the annexed area until more permanent action can be taken.

E. Planned developments shall be allowed outright without requiring an overlay zone ~~for all single family residential and general residential zoned properties.~~

F. Any reference to Single-Family Residential shall be considered Standard Residential.

#### **17.04.060 Land use application/permit procedures under the zoning ordinance.**

The land use application/permit procedures referenced in this zoning ordinance (Title 17) are to be followed according to the criteria set forth by ordinance in Title 19 of the municipal code by the city council.

## Chapter 17.08 ~~SINGLE-FAMILY~~STANDARD RESIDENTIAL ZONE (R-S)

### 17.08.010 Purpose.

The purpose of the R-S zone is to promote and encourage a suitable environment for family residential living and to protect and stabilize the residential characteristics of the zone. The R-S Zone is primarily for single-~~family-unit~~ homes, accessory dwelling units, duplexes, and their accessory uses. In addition, multi-~~unit~~family dwellings and some other uses may be evaluated as a conditional use (discretionary pathway).

### 17.08.020 Uses permitted outright.

In the R-S zone, the following uses and their accessory uses are permitted outright. Special standards for certain uses, marked with an asterisk (\*), are found in Section 17.08.090.

- A. ~~Single-family dwellings~~Dwelling Single Unit Detached\* and their accessory uses.
- B. Home occupations which comply with Chapter 17.46.
- C. Manufactured dwellings.\*
- D. Accessory use structures.\*
- E. Accessory dwelling units.\*
- F. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).
- G. Duplexes
- H. Single Room Occupancy Development

### 17.08.030 Conditional uses permitted.

- A. Religious use.
- B. Governmental structure or land use including but not limited to a public park, playground, fire station, library, or museum.
- C. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, group care center, residential care facility, residential care home, or medical clinic.
- D. School: nursery, primary, elementary, junior high, or senior high.
- E. Pumping station and utility substation.
- F. ~~Manufactured dwellings that do not meet the minimum standards set in Sections 17.08.090(A)–(B).~~
- G. Boarding house, bed and breakfast facility, hostel, or residency hotel.
- H. ~~Multifamily dwelling units~~Dwelling Unit Multiple.
- I. Commercial use in conjunction with a planned development under the Toledo Land Division Ordinance.
- J. Child day care center.\*
- K. ~~Single Family Homes that do not meet the minimum standards set in Sections 17.08.090(A)–(B).~~
- L. Cottage Clusters\*

### 17.08.040 Signs.

The following signs are permitted in the R-S zone:

- A. One temporary sign, not illuminated and not to exceed nine square feet in area, advertising the sale, lease, or rental of the property.

- B. Temporary political signs, not illuminated and not to exceed six square feet, to be removed within seven days after the pertinent election date.
- C. One non-illuminated sign not to exceed six square feet in area in conjunction with a home occupation or short term rental.
- D. One non-illuminated sign not to exceed 24 square feet in conjunction with an multi-unit dwelling unit or subdivision.

**17.08.050 Lot size.**

The minimum lot area shall be six thousand (6,000) square feet for single-unit attached and duplexes. The criteria for the conditional use or planned unit development approval process may authorize other use types at a density at or above the density level authorized in the R-S zone under the uses permitted outright. Density in the R-S zone discretionary conditional use development process shall not exceed twenty-five (25) units per acre.

**17.08.060 Setback requirement.**

In an R-S zone the yards shall be as follows:

- A. The front yard shall be a minimum of fifteen (15) feet. Ramps in compliance with the Americans with Disabilities Act (ADA) may encroach into the front yard setback.
- B. The side yard shall be a minimum of five (5) feet on both sides except that on corner lots the setback for all buildings shall be a minimum of ten (10) feet on the side abutting a street.
- C. The rear yard shall be a minimum of five (5) feet.
- D. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least twenty (20) feet from the access street not including alleys.

**17.08.070 Height of building.**

In an R-S zone no principal building shall exceed a height of thirty-five (35) feet. An accessory building with an Accessory Dwelling Unit over a garage shall not exceed twenty-five (25) feet. All other accessory buildings shall not exceed a height of two stories or twenty-two (22) feet, whichever is less.

**17.08.080 Lot coverage.**

In an R-S zone buildings shall not occupy more than an accumulative sixty (60) percent of the lot area. An additional 10% of lot coverage is allowed for Accessory Dwelling Units and Duplexes.

**17.08.090 Special standards for certain uses (marked with an asterisk (\*) in Sections 17.08.020 and 17.08.030).**

- A. Design Features for Single-~~Family-Unit~~ Dwellings in a ~~Single-Family~~Standard Residential Zone.
  - ~~1. All single family dwellings located within a single family residential zone, except for manufactured dwellings located within a mobile home or manufactured home park, shall utilize at least three of the following design features, or other design features as approved by the planning commission:~~
    - ~~a. Dormers;~~
    - ~~b. Recessed entries;~~

- ~~e. Cupolas;~~
  - ~~d. Bay or bow windows;~~
  - ~~e. Window shutters;~~
  - ~~f. Off set on building face or roof (minimum twelve (12) inches);~~
  - ~~g. Gables;~~
  - ~~h. Covered porch entry or enclosed deck;~~
  - ~~i. Pillars or posts;~~
  - ~~j. Tile, wood shake, three tab composite material, or wood shingle roof;~~
  - ~~k. Horizontal lap siding or shakes;~~
  - ~~l. Perimeter foundation of surfaced concrete or masonry;~~
  - ~~m. Window trim (minimum four inches wide);~~
  - ~~n. Balconies/decks;~~
  - ~~o. Decorative pattern on exterior finish (e.g., scales/shingles, wainseoting, ornamentation, and similar features);~~
  - ~~p. An alternative feature providing visual relief similar to above options;~~
  - ~~q. Six inch minimum eaves plus gutters and downspouts.~~
- ~~2. All single family dwellings will meet the minimum requirements for energy efficiency, as set by the building codes as adopted by the city, excepting manufactured dwellings which shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards previously stated. Evidence demonstrating that the manufacture dwelling meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturers certification shall not be required.~~
  3. All driveways shall have an all-weather surface as approved by the Public Works Department.
  4. Erosion control plans must be submitted prior to issuance of a building permit.
  5. Single-family unit dwellings and other improvements shall be developed in compliance with all other applicable provisions set forth in the city zoning ordinance and the Building Codes.
- B. Manufactured Dwellings. In addition to compliance with the provisions set forth above in Section I 7.08.090(A), a manufactured dwelling shall be permitted outright subject to the following standards:
1. The manufactured dwelling must show compliance with Oregon Manufactured Dwelling Installation Specialty Code.
- C. Accessory Use Structures. Structures that are incidental and subordinate to the main structure on the property which are located in conjunction with the main uses are allowed.
1. If the accessory structure is ten (10) feet or less high and less than or equal to one hundred twenty (120) square feet, it can be located in the rear setback area, but no closer than five feet from the property lines.
  2. All of the side and front yard setback must be met.
  3. Accessory structures may be of any size provided no other portion of the zoning code such as the sections on lot coverage standards or the building height standards are violated.
- D. Accessory dwelling units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:
1. One Unit. A maximum of one Accessory Dwelling Unit is allowed per legal

single-family-unit dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling ( e.g., an addition or the conversion of an existing floor).

2. Floor Area

- a. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller.
- b. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwelling Units that result from the conversion of a level or floor ( e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling Unit would be more than 850 square feet.

3. Other Development Standards. Accessory Dwelling Units shall meet all other development standards ( e.g. height, setbacks, lot coverage, etc.) for buildings in the zoning district except that:

- a. Conversion of an existing legal non-conforming structure to an Accessory Dwelling Unit is allowed, provided that the conversion does not increase the non-conformity.
- b. No off-street parking is required for an Accessory Dwelling Unit.

4. Design Standards

- a. Accessory Dwelling Units shall comply with fire and life-safety codes.

E. Child Day Care Centers shall meet the following requirements:

1. A fence installed at least four feet in height around any play yard areas which cannot be breached by children.
2. Vehicular traffic and pedestrian facilities located and designed to prevent cars from backing into the street or crossing the pedestrian paths of children entering or leaving the building(s) or play area(s).
3. Off-street parking provided at one and a quarter (1.25) spaces per staff person for the shift with the highest number of staff persons. Any fraction of a space requires an additional space (e.g., 1.25 to 1.75 spaces would require two full spaces).
4. Located in a manner and with sufficient barriers to minimize disturbance to the surrounding properties and to prevent or minimize environmental/safety hazards for the children in the center.
5. Must be registered or certified through the State Department of Children and Family Services.

F. Cottage Clusters

1. Purpose. A cottage housing development is a small cluster of dwelling units appropriately sized for smaller households and available as an alternative to the development of typical detached single-family-unit homes. Cottage housing is intended to address the changing composition of households, and the need for smaller, more diverse, and often, more affordable housing choices. Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family-unit residential development.
2. Ownership. Cottage housing developments may be sited on one commonly owned parcel with individual cottages owned in a condominium, cooperative, or similar arrangement, or cottages may be on individual lots with shared amenities and

facilities owned in common.

3. Standards. Cottage housing developments are subject to the following standards:
  - a. Maximum Floor Area. A cottage shall enclose an area of not more than twelve hundred (1,200) square feet.
  - b. Setbacks. The setbacks from adjacent property lines along the perimeter of the cottage housing development shall be the same as required by the underlying zone. The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.
  - c. Maximum Height shall not exceed twenty five (25) feet.
  - d. A minimum of 75% of the cottages front entrances must face the common open space or a street.
  - e. Orientation of Cottages. Cottages shall be clustered around the common open space.
  - f. Minimum lot size for a cottage cluster shall be ten thousand (10,000) square feet.
  - g. Fire access. No part of any structure shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.
4. Community Buildings. Cottage housing developments may include community buildings that provide space for accessory uses such as community meeting rooms, exercise rooms, day care, or community eating areas. They shall have a footprint of no more than 800 square feet and may not exceed one story in height.
5. Common Open Space. Each cottage cluster shall have common open space in order to provide a sense of openness and community of residents. Common open space is subject to the following standards:
  - a. Each cottage cluster shall contain at least 1,500 square feet of common open space regardless of the number of cottages in the cluster.
  - b. Parking areas, required yards, private open space, and driveways do not qualify as common open space.
6. Parking. Cottage housing developments shall have at least one space for each cottage.
7. Interior Fences. Fences on the interior of the cottage housing development shall not exceed three feet in height and shall not consist of solid board fencing.
8. Existing Structures. On a lot or parcel to be used for a cottage housing development, an existing detached single-family-unit dwelling that may be nonconforming with respect to the requirements of this section may remain, but the extent of its nonconformity may not be increased. Such dwellings shall count towards the number of cottages allowed in the cottage housing development.
9. Sewer connection. Each cottage in a cottage housing development must be connected to a city sewer system. No cottage in a cottage housing development may use a septic system.

## Chapter 17.12 GENERAL RESIDENTIAL ZONE (R-G)

### 17.12.010 Purpose.

The purpose of the R-G zone is to encourage a wide range of housing types, including, multi-~~familyunit~~, single-~~familyunit detached~~, accessory dwelling units, and cottage clusters. In addition, some other uses may be evaluated as a conditional use.

### 17.12.020 Uses permitted outright.

In the R-G zone, the following uses and their accessory uses are permitted outright. Special standards for certain uses, marked with an asterisk (\*), are found in Section 17.12.040.

- A. ~~Single-family dwellings~~Dwelling Single Unit Detached and their accessory uses.
- B. ~~Multi-family dwelling units~~Dwelling Unit Multiple.
- C. Manufactured dwellings.\*
- D. Accessory dwelling units.\*
- E. Home occupations which comply with Chapter 17.46.
- F. Accessory use structures.
- G. Registered and licensed residential care facility and residential care homes.
- H. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).
- I. Cottage Clusters\*
- J. Single-Room Occupancy Development

### 17.12.030 Conditional uses permitted.

- A. Religious use.
- B. Governmental structure or land use, including but not limited to a public park, playground, fire station, library, or museum.
- C. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, group care center, or medical clinic.
- D. School: nursery, primary, elementary, junior high, or senior high.
- E. Pumping station and utility substation.
- F. Boarding house, bed and breakfast facility, hostel, or residency hotel.
- G. Child day care center.\*
- H. ~~Manufactured dwellings that do not meet the minimum standards in Section 17.12.040(B).~~
- I. Professional office use, bakery/catering, art gallery/studio, eating establishment, or other similar type of commercial use in conjunction with the residential use of the property that exceeds the standards for a home occupation.

### 17.12.040 Special standards for certain uses (marked with an asterisk (\*) in Sections 17.12.020 and 17.12.030).

- A. Accessory dwelling units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:
  - 1. Two Units. A maximum of two Accessory Dwelling Units are allowed per legal single-~~family-unit~~ dwelling. One unit must be a detached Accessory Dwelling, or

in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling ( e.g., an addition or the conversion of an existing floor).

2. Floor Area
  - a. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller.
  - b. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwelling Units that result from the conversion of a level or floor ( e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling Unit would be more than 850 square feet.
3. Other Development Standards. Accessory Dwelling Units shall meet all other development standards ( e.g. height, setbacks, lot coverage, etc.) for buildings in the zoning district except that:
  - a. Conversion of an existing legal non-conforming structure to an Accessory Dwelling Unit is allowed, provided that the conversion does not increase the non-conformity.
  - b. No off-street parking is required for an Accessory Dwelling Unit.
4. Design Standards
  - a. Accessory Dwelling Units shall comply with fire and life-safety codes.

B. Manufactured dwellings shall:

1. The manufactured dwelling must comply with Oregon Manufactured Dwelling Installation Specialty Code

C. Child day care centers shall meet the following requirements:

1. A fence installed at least four feet in height around any play yard areas which cannot be breached by children.
2. Vehicular traffic and pedestrian facilities located and designed to prevent cars from backing into the street or crossing the pedestrian paths of children entering or leaving the building(s) or play area(s).
3. Off-street parking provided at one and a quarter spaces per staff person for the shift with the highest number of staff persons. Any fraction of a space requires an additional space (e.g., one and a quarter to one and three-fourths spaces would require two full spaces).
4. Located in a manner and with sufficient barriers to minimize disturbance to the surrounding properties and to prevent or minimize environmental/safety hazards for the children in the center.
5. Must be registered or certified through the State Department of Children and Family Services.

D. Cottage Clusters

1. Purpose. A cottage housing development is a small cluster of dwelling units appropriately sized for smaller households and available as an alternative to the development of typical detached single-~~family-unit~~ homes. Cottage housing is intended to address the changing composition of households, and the need for smaller, more diverse, and often, more affordable housing choices. Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding

- single-~~family-unit~~ residential development.
2. Ownership. Cottage housing developments may be sited on one commonly owned parcel with individual cottages owned in a condominium, cooperative, or similar arrangement, or cottages may be on individual lots with shared amenities and facilities owned in common.
  3. Standards. Cottage housing developments are subject to the following standards:
    - a. Maximum Floor Area. A cottage shall enclose an area of not more than twelve hundred (1,200) square feet.
    - b. Setbacks. The setbacks from adjacent property lines along the perimeter of the cottage housing development shall be the same as required by the underlying zone. The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.
    - c. Maximum Height shall not exceed twenty five (25) feet.
    - d. A minimum of 75% of the cottages front entrances must face the common open space or a street.
    - e. Orientation of Cottages. Cottages shall be clustered around the common open space.
    - f. Minimum lot size for a cottage cluster shall be ten thousand (10,000) square feet.
    - g. Fire access. No part of any structure shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.
  4. Community Buildings. Cottage housing developments may include community buildings that provide space for accessory uses such as community meeting rooms, exercise rooms, day care, or community eating areas. They shall have a footprint of no more than 800 square feet and may not exceed one story in height. Their design, including the roof lines, shall be similar to and compatible with that of the cottages within the cottage housing development.
  5. Common Open Space. Each cottage cluster shall have common open space in order to provide a sense of openness and community of residents. Common open space is subject to the following standards:
    - a. Each cottage cluster shall contain at least 1,500 square feet of common open space regardless of the number of cottages in the cluster.
    - b. Parking areas, required yards, private open space, and driveways do not qualify as common open space.
  6. Parking. Cottage housing developments shall have at least one space for each cottage.
  7. Interior Fences. Fences on the interior of the cottage housing development shall not exceed three feet in height and shall not consist of solid board fencing.
  8. Existing Structures. On a lot or parcel to be used for a cottage housing development, an existing detached single-~~family-unit~~ dwelling that may be nonconforming with respect to the requirements of this section may remain, but the extent of its nonconformity may not be increased. Such dwellings shall count towards the number of cottages allowed in the cottage housing development.
  9. Sewer connection. Each cottage in a cottage housing development must be connected to a city sewer system. No cottage in a cottage housing development may use a septic system.

### **17.12.050 Signs.**

The following signs are permitted in the R-G zone:

- A. One temporary sign, not illuminated and not to exceed nine square feet in area, advertising the sale, lease, or rental of the property.
- B. Temporary political signs, not illuminated and not to exceed six square feet, to be removed within seven days after the pertinent election date.
- C. One nonilluminated sign not to exceed six square feet in area in conjunction with a home occupation or short term rental.
- D. One non-illuminated sign not to exceed 24 square feet in conjunction with an multi-unit dwelling unit or subdivision.

### **17.12.060 Lot size.**

The minimum lot area shall be fifty five hundred (5,500) square feet for a single-~~family-unit~~ dwelling and duplexes. Density in the R-G zone shall not exceed thirty two (32) units per acre.

### **17.12.070 Setback requirements.**

In an R-G zone the yards shall be as follows:

- A. The front yard shall be a minimum of fifteen (15) feet. Ramps in compliance with the Americans with Disabilities Act (ADA) may encroach into the front yard setback.
- B. The side yard shall be a minimum of five feet on both sides except that on corner lots the setback for all buildings shall be a minimum of ten (10) feet on the side abutting a street.
- C. The rear yard shall be a minimum of five feet.
- D. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least twenty (20) feet from the access street not including alleys.

### **17.12.080 Height of buildings.**

In an R-G zone no principal building shall exceed a height of thirty-five (35) feet. An accessory building with an Accessory Dwelling Unit over a garage shall not exceed twenty-five (25) feet. All other accessory buildings shall not exceed a height of two stories or twenty-two (22) feet, whichever is less.

### **17.12.090 Lot coverage.**

In an R-G zone buildings shall not occupy more than an accumulative sixty-six (66) percent of the lot area. An additional 4% of lot coverage is allowed for Accessory Dwelling Units and Duplexes.

## Chapter 17.16 COMMERCIAL ZONE (C)

### 17.16.010 Purpose.

The purpose of the C zone is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Compatible uses including public, civic, and institutional uses are also allowed. Residential use above the commercial main floor, separate and distinct from the commercial main floor, or a residential live work unit is allowed, subject to inspection and approval by the City for fire and life safety and are allowed only where there is a commercial use and the business has obtained a business license from the City of Toledo.

### 17.16.020 Uses permitted outright.

In the C zone, the following uses and their accessory uses are permitted outright. Special standards for certain uses, marked with an asterisk (\*), are found in Section 17.16.050.

- A. Retail trade or commercial services, except drive-in uses.
- B. Entertainment (e.g., theaters, clubs, amusement uses).
- C. Hotel, motels, bed and breakfast facility, hostel, or residency hotels.
- D. Personal and professional services (e.g., child care center, catering/food services, restaurants, taverns, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, or similar uses).
- E. Medical and dental offices, clinics or laboratories.
- F. Office uses (i.e., those not otherwise listed).
- G. Public and institutional uses such as religious uses, clubs, lodges, government offices and facilities, public safety services, libraries, museums, community centers, public parking lots, parks, schools, or other similar uses.
- H. Custom manufacturing of goods for retail and/or wholesale sale on the premises such as small-scale crafts, electronic equipment, bakery, furniture, art, sculpture, pottery, or other similar types of goods.
- I. Truck and car repair and service—minor.\*
- J. Automobile service stations.
- K. One live work accessory dwelling unit that meets applicable code requirements.
- L. Temporary street vendors/seasonal commercial uses not to exceed six months.
- M. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).
- N. Replacement of a Dwelling unit Multiple within two years

### 17.16.030 Conditional uses permitted.

- A. Animal hospitals or kennels.
- B. Drive-in use for uses which are permitted outright or as conditional uses in the C zone.
- C. Restaurants (take-out or drive-in).
- D. Machine shops.
- E. Mini-storage.
- F. Multi-family dwelling units. Dwelling Unit Multiple
- G. Overnight trailer park or recreational vehicle parks.
- H. Pumping station or utility substations.
- I. Truck and car repair and service - major.

- J. Food production and/or beverage production, where the majority of the floor space will be devoted to providing personal services or goods to the public.
- K. Medical marijuana dispensary facility.
- L. Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.
- M. Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.
- N. Cottage Clusters

#### **17.16.040 Setback requirements.**

Except for allowed uses within the Main Street District area as defined in Section 17.40.010, the front yard in a C zone shall be a minimum of twenty-~~five (205)~~ feet for property adjacent to Business Highway 20 and a minimum of fifteen feet (15) feet for all other streets. Dwelling Unit – multiple approved to through a conditional-use may propose reduced setbacks.

#### **17.16.050 Special standards for certain uses (marked with an asterisk (\*) in Section 17.16.020).**

- A. Truck and Car Repair and Service - Minor:
  - 1. All repair shall be conducted entirely within an enclosed building.
  - 2. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to one space for the first four repair bays with .25 storage spaces per each additional repair bay. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  - 3. Operating vehicles shall be parked overnight only in designated parking areas or within the building.

## Chapter 17.20 LIGHT INDUSTRIAL ZONE (L-I)

### 17.20.010 Purpose.

The purpose of the light industrial zone is to implement the Toledo Comprehensive Land Use Plan by providing areas to serve a variety of manufacturing and other industrial activities with limited external impacts and to serve as a transition area between commercial, public and residential uses and heavier industrial uses.

Uses permitted in the L-I zone are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. The external impact from these uses is generally less than uses permitted in the industrial zone, and transportation needs are often met by truck. Activities are generally located indoors, although there may be some outdoor storage, delivery, and loading. Offices and commercial uses are permitted on a limited basis, and only in conjunction with a permitted L-I use.

### 17.20.020 Uses permitted outright.

In the L-I zone, the following uses and their accessory uses are permitted, subject to applicable standards, provided that the uses occur in a building or buildings that together do not exceed forty thousand (40,000) square feet of floor area. Special standards for certain uses (marked with an asterisk (\*)) are found in Section 17.20.040.

- A. Assembly plants.
- B. Limited manufacturing.
- C. Contractor's warehouse and shop.
- D. Crane business and related operations.
- E. Storage in conjunction with a permitted use.
- F. Machine shop and fabrication.
- G. Mini-storage.
- H. Parking in conjunction with uses permitted in the L-I zone.
- I. Governmental and utility uses such as a pumping station, utility service yard, utility substation, public works shop, public safety services, or similar facilities.
- J. Separate office building and/or retail sales in conjunction with a permitted use.\*
- K. Wholesale trade.
- L. Auto body shop.\*
- M. Truck and car repair and service-minor.\*
- N. Boat building and/or boat repair and related launch facility.
- O. Automobile service stations.
- P. One security dwelling as a separate structure or one security dwelling as part of a building for light industrial use that complies with applicable codes for mixed use occupation. A security dwelling may only be allowed as an accessory use in conjunction with uses permitted in the L-I zone.\*
- Q. Temporary street vendors/seasonal commercial uses not to exceed six months.
- R. Uses permitted outright in the commercial zone, but only on parcels with frontage on Business Highway 20.
- S. Warehousing.
- T. Railroad line and associated uses.
- U. Commercial fishing gear maintenance, repair and storage.

- V. Food production and/or beverage production.
- W. Research and development.
- X. Low intensity recreation.
- Y. Timber-based operations, excluding milling and/or processing of wood and paper products.
- Z. Commercial marina or moorage, and or charter boat operation.
- AA. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

**17.20.030 Conditional uses permitted.**

- A. A use permitted outright in the L-I zone, in which the building or buildings provided for the use exceed forty thousand (40,000) square feet of floor area.
- B. Bulk storage of flammable liquids and gases.
- C. Eating or drinking establishments, including take-out or drive-in services.
- D. Industrial museum.
- E. Processing and manufacturing operations, excluding the following:
  - 1. Asphalt mixing and batching.
  - 2. Explosives manufacturing.
  - 3. Petroleum or petroleum products refining.
  - 4. Fertilizer manufacture.
  - 5. Gas manufacture.
  - 6. Slaughterhouse or rendering facility.
- F. Shipping facilities.
- G. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.
- H. Truck and car repair and service—major.
- I. Waste transfer, recycling facility, or scrap metal facility.
- J. Drive-in use for uses which are permitted outright or as conditional uses in the L-I zone.
- K. Concrete mixing and batching, but excluding asphalt mixing and batching.
- L. Medical marijuana dispensary facility.
- M. Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory. Marijuana retailer may be approved when medical marijuana dispensary facility is an approved use at the same site.
- N. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

**17.20.040 Special standards for certain uses (marked with an asterisk (\*) in Section 17.20.020).**

- A. Auto Body Shop. The use must comply with the following standards:
  - 1. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to two spaces per paint booth. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  - 2. Operating vehicles shall be parked overnight only in designated parking areas or within the building.
- B. Truck and Car Repair and Service—Minor. The use must comply with the following standards:
  - 1. Non-operating vehicles shall be stored overnight only within the building and

outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to one space for the first two repair bays and .50 storage spaces per each additional repair bay. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.

2. Operating vehicles can be parked overnight only in designated parking areas or within the building.

C. A Security Dwelling as a Separate Structure. The dwelling must comply with the following standards:

1. It must be a site-built single-family-unit structure which meets the Uniform Building Code or a manufactured home that meets the following criteria:
  - a. Be a single wide or wider.
  - b. Must comply with the current edition of the Oregon Manufactured Dwelling Specialty Code.
  - c. Have skirting that matches the dwelling or perimeter foundation of surfaced concrete or masonry.
  - d. The manufactured dwelling shall have a pitched roof with a minimum nominal slope of two feet in height for each twelve (12) feet in width (2:12), and shall be of three-tab or shake style roofing material.
2. The structure is limited to a size between two hundred forty (240) to eight hundred fifty (850) square feet and is limited in size to a one-bedroom unit.
3. Parking must be provided for the structure at the ratio of one space per unit and it must be adjacent to the dwelling.
4. The dwelling may be located within the industrial building or if it is in a separate structure:
  - a. A fenced, landscaped yard will be provided with setbacks as are required in the R-S zone from any of the industrial uses on the site and from the adjacent properties and roadways.
  - b. There shall not be any outdoor storage in the front yard or in any of the setback areas of the dwelling.
5. Security dwellings are to be located so as to minimize the number of dwellings in an industrial area/park, i.e., near the entry to the complex.

D. Separate office building and/or retail sales associated with a permitted use in the L-I zone. The dwelling must comply with the following standards:

1. Separate office buildings or retail sales associated with a permitted L-I use must not exceed fifty (50) percent of the total floor area of the building or buildings devoted to the use.

## Chapter 17.24 INDUSTRIAL ZONE (I)

### 17.24.010 Purpose.

The purpose of the I zone is to implement the Toledo Comprehensive Land Use Plan by providing sufficient, desirable land in the city for the expansion of existing industrial sites and for the construction and development of new industry. The I zone is intended to serve a range of manufacturing uses which may have significant external impacts. Uses permitted in the I zone often have transportation needs that include both rail and truck. Less intensive industrial uses that are permitted in the L-I [zone] are also permitted.

### 17.24.020 Uses permitted outright.

In the I zone, the following uses and their accessory uses are permitted outright. Special standards for certain uses (marked with an asterisk (\*)) are found in Section 17.24.040.

- A. Assembly plants.
- B. Limited manufacturing.
- C. Processing and manufacturing operations, except as noted in subsection FF.
- D. Contractor's warehouse and shop.
- E. Crane business and related operations.
- F. Storage in conjunction with a permitted use.
- G. Machine shop and fabrication.
- H. Mini-storage.
- I. Parking in conjunction with uses permitted in the I zone.
- J. Governmental and utility uses such as a pumping station, utility service yard, utility substation, public works shop, public safety services, or similar facilities.
- K. Separate office building and/or retail sales in conjunction with a permitted use.\*
- L. Wholesale trade.
- M. Auto body shop.\*
- N. Truck and car repair and service—minor.\*
- O. Truck and car repair service—major.
- P. Automobile service stations.
- Q. One security dwelling as a separate structure or one security dwelling as part of a building for industrial use that complies with applicable codes for mixed use occupation. A security dwelling may only be allowed as an accessory use in conjunction with uses permitted in the I zone.\*
- R. Temporary street vendors/seasonal commercial uses not to exceed six months.
- S. Warehousing.
- T. Railroad line and associated uses.
- U. Commercial fishing gear maintenance, repair and storage.
- V. Food production and/or beverage production.
- W. Research and development.
- X. Low intensity recreation.
- Y. Timber-based operations.
- Z. Shipping facilities.
- AA. Waste transfer, recycling facility, or scrap metal facility.
- BB. Bulk storage of flammable liquids and gases.
- CC. Boat building and/or boat repair and related launch facility.
- DD. Commercial marina or moorage, and or charter boat operation.

- EE. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).
- FF. The following processing and manufacturing operations are not permitted:
  1. Asphalt mixing and batching.
  2. Explosives manufacturing.
  3. Petroleum or petroleum products refining.
  4. Fertilizer manufacture.
  5. Gas manufacture.
  6. Slaughterhouse or rendering facility.

**17.24.030 Conditional uses permitted.**

- A. Mineral resource mining, recovery, stockpiling and processing.
- B. Concrete mixing and batching, but excluding asphalt mixing and batching.
- C. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.
- D. Eating or drinking establishments, including take-out or drive-in services.
- E. Industrial museum.
- F. Drive-in use for uses which are permitted outright or as conditional uses in the I zone.
- G. Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory.
- H. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the I zone and which conform with the purpose of the zone.

**17.24.040 Special standards for certain uses (marked with an asterisk (\*) in Section 17.24.020).**

- A. Auto Body Shop. The use must comply with the following standards:
  1. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to two spaces per paint booth. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  2. Operating vehicles shall be parked overnight only in designated parking areas or within the building.
- B. Truck and Car Repair and Service—Minor. The use must comply with the following standards:
  1. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to one space for the first two repair bays and .50 storage spaces per each additional repair bay. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  2. Operating vehicles can be parked overnight only in designated parking areas or within the building.
- C. A Security Dwelling as a Separate Structure. The dwelling must comply with the following standards:
  1. It must be a site-built single-family-unit structure which meets the Uniform Building Code or a manufactured home that meets the following criteria:
    - a. Be a single wide or wider.
    - b. Must comply with the current edition of the Oregon Manufactured

Dwelling Specialty Code.

- c. Have skirting that matches the dwelling or perimeter foundation of surfaced concrete or masonry.
  - d. The manufactured dwelling shall have a pitched roof with a minimum nominal slope of two feet in height for each twelve (12) feet in width (2:12), and shall be of three-tab or shake style roofing material.
2. The structure is limited to a size between two hundred forty (240) to eight hundred fifty (850) square feet and is limited in size to a one-bedroom unit.
  3. Parking must be provided for the structure at the ratio of one space per unit and it must be adjacent to the dwelling.
  4. The dwelling may be located within the industrial building or if it is in a separate structure:
    - a. A fenced, landscaped yard will be provided with setbacks as are required in the R-S zone from any of the industrial uses on the site and from the adjacent properties and roadways.
    - b. There shall not be any outdoor storage in the front yard or in any of the setback areas of the dwelling.
  5. Security dwellings are to be located so as to minimize the number of dwellings in an industrial area/park, i.e., near the entry to the complex.
- D. Separate office building and/or retail sales associated with a permitted use in the I zone. The dwelling must comply with the following standards:
1. Separate office buildings or retail sales associated with a permitted industrial use must not exceed thirty (30) percent of the total floor area of the building or buildings devoted to the use.

## **Chapter 17.28 NATURAL RESOURCE ZONE (N-R)**

### **17.28.010 Purpose.**

The purpose of the N-R zone is to protect land and water important as habitat for plant, animal, or marine life for future generations, to ensure open spaces, to promote a healthy and visually attractive environment, and to provide for human development and enrichment by providing recreational areas, facilities, and opportunities.

### **17.28.020 Uses permitted outright.**

In an N-R zone, the following uses and their accessory uses are permitted outright:

- A. Planting, cultivation and harvesting of timber or agricultural crops.
- B. Pasture.
- C. One residence per tax lot existing on the effective date of the ordinance from which this chapter is derived, provided the residence is occupied in conjunction with an agricultural use.
- D. Accessory out-buildings.
- E. Yaquina Estuary Management Unit #33 shall be governed by the permitted uses established through the Yaquina Bay Task Force.
- F. Public park facilities.
- G. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

### **17.28.030 Conditional uses permitted.**

- A. Pumping station and utility substation.
- B. Structural shoreline stabilization.

## Chapter 17.32 WATER-DEPENDENT ZONE (W-D)

### 17.32.010 Purpose.

The purpose of the W-D zone is to provide for water-dependent uses which need contact with or use of the water for water-borne transportation, recreation, energy production, or water supply.

### 17.32.020 Uses permitted outright.

In a W-D zone, the following uses and their accessory uses are permitted outright:

- A. Marine terminal or transfer facility for fish, timber, or other water-borne commerce.
- B. Industrial processing plant which requires access to water body during processing operation.
- C. Log storage that requires access to water.
- D. Boat building or boat repair and launch facility.
- E. Seafood processing.
- F. Marine fuel sales.
- G. Charter boat operation.
- H. Marine ways and boat ramp.
- I. Commercial marina or moorage.
- J. One security dwelling as part of a building for water-dependent use that complies with applicable codes for mixed use occupation.
- K. Any shoreland use or activity necessary in relation to a use allowed under Section 17.32.020.
- L. Any other use that conforms with the definition of water-dependent development in Section 17.04.020.
- M. Low intensity recreation providing waterfront access.
- N. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

### 17.32.030 Conditional uses permitted.

- A. Boat sales.
- B. Bait and tackle shop.
- C. Warehouse and storage area for marine equipment.
- D. Seafood processing plant, smoking or canning establishment or retail outlet that does not require access to water.
- E. Restaurant in conjunction with and incidental to a water-dependent use which provides a waterfront viewing experience and which either provides public waterfront access with a waterfront walkway or pavilion, or is located on a floor above a water-dependent use.
- F. Public accommodation in conjunction with a water-dependent use that provides marina facility or public waterfront walkway or pavilion.
- G. Parking lot associated with a permitted or conditional use in the W-D zone.
- H. Marine equipment or supply sales.
- I. Other water-related development in conjunction with a water-dependent use.
- J. A non-water-dependent or non-water-related use, provided no structures or alterations are involved which would prevent future use of the site for water-dependent use.
- K. Structural shoreline stabilization as defined in the Lincoln County Estuary Management Plan as amended from time to time.

**17.32.040 Other uses permitted.**

A permitted or conditional use as specified within Management Unit Numbers 12, 25, 30, 31, 32, and 33 as contained within the Lincoln County Estuary Management Plan, which is hereby incorporated into this section by reference.

## **Chapter 17.36 PUBLIC LANDS ZONE (P-L)**

### **17.36.010 Purpose.**

The purpose of the P-L zone is to implement the Toledo Comprehensive Land Use Plan by indicating lands currently providing areas to benefit the public, regardless of ownership of the lot or parcel, and used for a public use such as schools and parks acknowledging that such lands may be put to a variety of uses.

### **17.36.020 Uses permitted outright.**

In a P-L zone, the following uses and their accessory uses are permitted outright:

- A. Uses existing at the time of passage of the ordinance from which this chapter is derived and the expansion of those uses are permitted outright.
- B. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

### **17.36.030 Conditional uses permitted.**

- A. Any other use necessary to benefit the public.
- B. A residential and/or commercial mixed use may be conditionally allowed as an accessory structure or use, in addition to a public use, if incidental and subordinate to the public use.

### **17.36.040 Special standards.**

A residential and/or commercial accessory use may be allowed in the same structure or on the same lot or parcel as the public use, provided all applicable development standards and building code requirements for the nearest residential and/or commercial zone are met.

### **17.36.050 Abandoned use.**

After a public use is abandoned for more than six months, the properties are no longer eligible for the P-L zone designation and must be rezoned through a comprehensive land use plan map amendment.

## Chapter 17.40 MAIN STREET DISTRICT OVERLAY

### 17.40.010 Purpose and definition.

The purpose of the Main Street District Overlay is to recognize the unique attributes and development pattern of the Toledo Main Street area. In the event of a conflict between the entitlements, regulations or standards established in this Chapter and the equivalent provisions in the underlying zoning districts, the provisions of this Chapter shall govern. For the purpose of this ordinance the Main Street District is defined as the commercially zoned real property fronting the following streets:

- A. Main Street from Highway 20 south to Butler Bridge Road;
- B. Main Street from Highway 20 north to NE 4th Street;
- C. 2nd Street North from the Southern Pacific Railroad tracks east to Highway 20;
- D. 1st Street North from the Southern Pacific Railroad tracks east to Highway 20;
- E. Graham Street from the Southern Pacific Railroad tracks east to Alder Street;
- F. Alder Street from Business Highway 20 south to Graham Street; and
- G. The south side of Highway 20 from Main Street southeast to Alder Street.

### 17.40.020 Requirements from which Main Street District uses are exempt.

The Main Street District is exempt from the following sections of the code to the extent that the requirements are not included as a condition of approval of a land use permit.

- A. Setback requirements of the Commercial Zone of Section 17.16.040.
- B. Parking requirements of Section 17.44.030. Parking for residential uses is not allowed on Main Street.
- C. Landscaping requirements of Section 17.52.020.

### 17.40.030 Requirement for Commercial Storefronts Abutting Main Street

- A. Lots abutting Main Street shall reserve the ground floor for commercial uses unless residential on the ground floor is approved through the Conditional Use Process. Building entrances on Main Street that access a second story and occupy no other street frontage are exempt from the ground floor residential Conditional Use standard.
- B. The ground floor is defined as the level at the same grade as Main Street. Floors below Main Street grade shall be defined as the basement level. Floors above the ground level shall be defined as the second story, third story, etc.

### 17.40.040 Requirement for Residential Uses in the Main Street District Overlay

- A. Lots abutting Main Street and located in the Main Street District Overlay may have multi-~~family-unit~~ dwelling units on an upper floor or basement level subject to TMC 17.40.040(D). The ground floor shall meet the standards in TMC 17.40.030. Multi-~~family-unit~~ unit dwelling units meeting this standard are exempt from the multi-~~family-unit~~ conditional use requirement.
- B. Lots not abutting Main Street and located in the Main Street District Overlay may have multi-~~family-unit~~ on any floor subject TMC 17.40.040(D). Multi-~~family-unit~~ unit dwelling units meeting this standard are exempt from the multi-~~family-unit~~ conditional use requirement.
- C. Existing ground floor residential units abutting Main Street shall be considered a legal

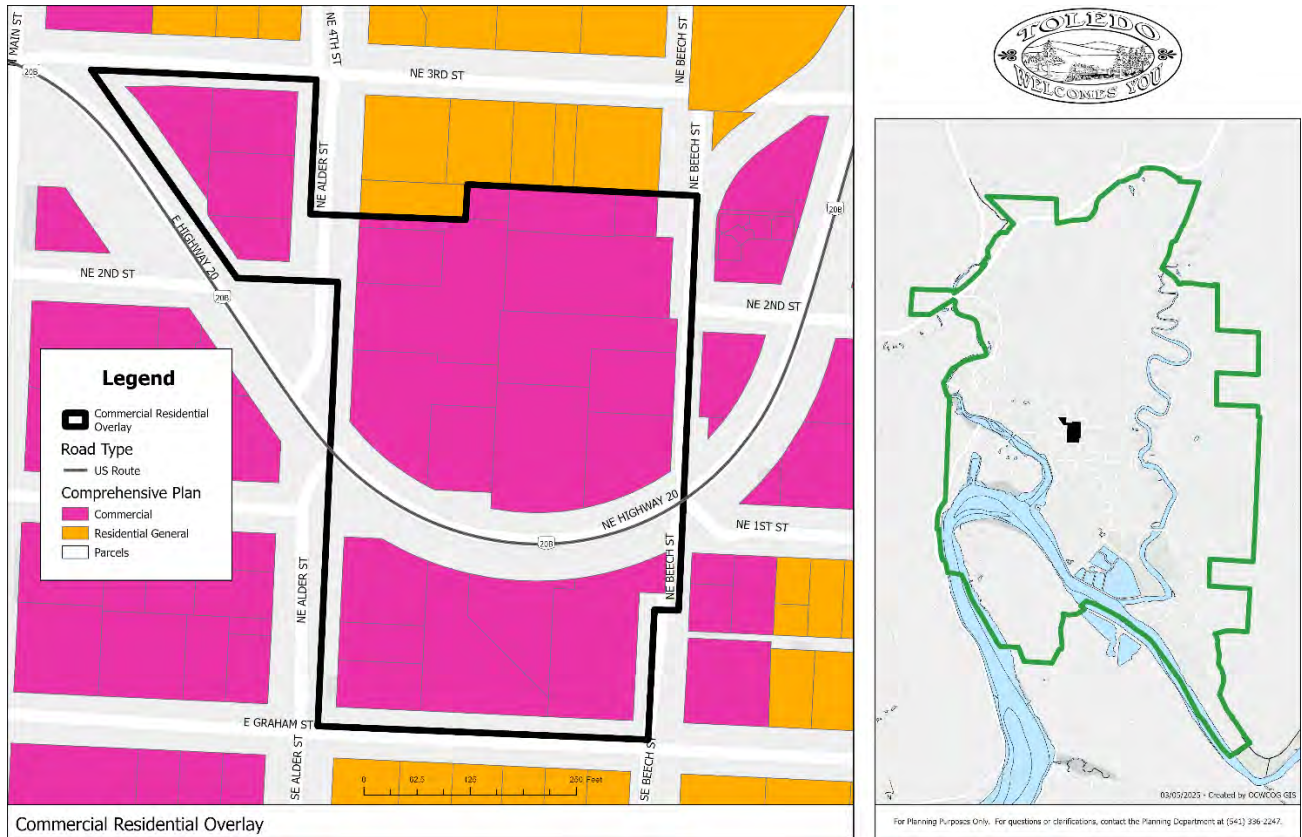
non-conforming use.

- D. Residential Uses shall comply with building codes, and fire and life safety codes.
- E. Cottage Clusters are not permitted in the Main Street District Overlay.

## Chapter 17.42 COMMERCIAL RESIDENTIAL OVERLAY

### 17.40.010 Purpose and definition.

The purpose of the Commercial Residential Overlay is to recognize the historic residential uses of the defined area and allow additional flexibility for continued and future residential uses. When Toledo zoning map was adopted, this area was expected to be commercial. The current demand for residential supports the increased flexibility in the defined area. This ordinance will apply to all real property located within the boundary identified in the Commercial Residential Overlay map.



### 17.40.020 Allowed Residential Uses.

- A. The Commercial Main Street Overlay zone allows residential uses outright.
- B. Residential uses in the Commercial Residential Overlay shall comply with the standards in the General Residential (R-G) Zone.
- C. Additional properties may be added to the Commercial Residential Overlay if they are abutting the boundary and located in the Commercial zone.

## Chapter 17.44 OFF-STREET PARKING AND LOADING

### 17.44.010 Purpose.

The purpose of this chapter is to provide basic and flexible standards for development of vehicle parking. The design of parking areas is critically important to the viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses resulting in the paving of extensive areas of land that could be put to better use. This chapter recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements.

### 17.44.020 Applicability.

All developments subject to development review (Chapter 17.60), including development of parking facilities, shall comply with the provisions of this section. At the time of erection of a new building or at the time of enlargement or change in use of an existing building within any zone in the city except the Main Street District area as defined by Section 17.40.010, off-street parking spaces shall be provided for the increased parking requirements as indicated in this section unless greater requirements are otherwise established.

### 17.44.030 Vehicle parking standards.

The minimum number of required off-street vehicle parking spaces shall be determined in accordance with the following standards. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area. Credit shall be allowed for "on-street parking", as provided in Section 17.44.040.

#### A. Residential Uses:

1. Single-~~family-unit~~ detached housing. Two parking spaces shall be provided for each detached single-~~family-unit~~ dwelling or manufactured home on an individual lot.
2. Two- and three-~~family-unit~~ housing. 1.5 parking spaces per dwelling unit.
3. Multi-~~family-unit~~ and single-~~family-unit~~ attached housing.
  - a. Studio units or one-bedroom units less than five hundred (500) sq. ft. - one space/unit.
  - b. One-bedroom units five hundred (500) sq. ft. or larger - 1.~~2550~~ spaces/unit.
  - c. Two-bedroom units - 1.~~5075~~ spaces/unit.
  - d. Three-bedroom units - ~~1.752.00~~ spaces/unit.
  - e. Retirement complexes for seniors fifty five (55) years or greater - one space/unit.
4. Rooming and boarding houses, dormitories. Two spaces for each three guest rooms, or one space per three beds, whichever is more.
5. Senior housing. Same as for retirement complexes.
6. Manufactured home parks. Same as for single-~~family-unit~~ detached housing.
7. Cottage Clusters. 1.0 space/unit

#### B. Commercial Uses:

1. Auto, boat or trailer sales, retail nurseries and similar bulk retail uses. One space per one thousand (1,000) square feet of the first ten thousand (10,000) square feet of gross land area; plus one space per five thousand (5,000) square feet for the excess over ten thousand (10,000) square feet of gross land area; and one space per two employees.
  2. Business, general retail, personal services.
    - a. General - one space per three hundred fifty (350) square feet of gross floor area.
    - b. Furniture and appliances - one space per seven hundred fifty (750) square feet of gross floor area.
  3. Chapels and mortuaries. One space per four fixed seats in the main chapel.
  4. Hotels and motels. One space for each guest room, plus one space for the manager.
  5. Offices.
    - a. Medical and Dental Offices - one space per three hundred fifty (350) square feet of gross floor area.
    - b. General Offices - one space per four hundred fifty (450) square feet of gross floor area.
  6. Restaurants, bars, ice cream parlors and similar uses. One space per four seats or one space per one hundred (100) square feet of gross leasable floor area, whichever is less.
  7. Theaters, auditoriums, stadiums, gymnasiums, similar uses. One space per four seats.
- C. Industrial Uses:
1. Industrial uses, except warehousing. One space per two employees on the largest shift or for each seven hundred (700) square feet of gross floor area, whichever is less, plus one space per company vehicle.
  2. Warehousing. One space per one thousand (1,000) square feet of gross floor area or for each two employees, whichever is greater, plus one space per company vehicle.
  3. Public utilities (gas, water, telephone, etc.), not including business offices. One space per two employees on the largest shift, plus one space per company vehicle; a minimum of two spaces is required.
- D. Public and Institutional Uses:
1. Child care centers having thirteen (13) or more children. One space per two employees; a minimum of two spaces is required except as otherwise defined in an individual zone.
  2. Religious uses and places of worship. One space per four seats.
  3. Golf courses, except miniature. Four spaces per hole, plus additional spaces for auxiliary uses set forth in this section. Miniature golf courses - one space per hole.
  4. Hospitals. Two spaces per patient bed.
  5. Nursing and convalescent homes. One space per three patient beds.
  6. Rest homes, homes for the aged, or assisted living. One space per two patient beds or one space per apartment unit.
  7. Schools, elementary and middle school. One and one-half spaces per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater.
  8. High schools. One and one-half spaces per classroom, plus one space per ten (10) students the school is designed to accommodate, or one space per four public assembly seats as set forth herein, whichever is greater.

9. Colleges, universities and trade schools. One and one half spaces per classroom, plus one space per five students the school is designed to accommodate, plus requirements for on campus housing.
- E. Unspecified Uses:  
Where a use is not specifically listed in this table, parking requirements shall be determined by finding that a use is similar to those listed in terms of parking needs.

#### **17.44.040 On-street parking credit.**

The amount of off-street parking required shall be reduced by one off-street parking space for every on-street parking space adjacent to the development. On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by city of Toledo, ODOT and/or Lincoln County standards. The following constitutes an on-street parking space:

- A. Parallel parking, each twenty-four (24) feet of uninterrupted curb;
- B. Diagonal parking per standard, each with eighteen (18) (thirty (30) degree) to ten (10) feet of curb (sixty (60) degree);
- C. Perpendicular (ninety (90) degree) parking, each with nine feet of curb;
- D. Curb space must be connected to the lot which contains the use;
- E. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and
- F. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted by the property owner.

#### **17.44.050 Parking location and shared parking.**

- A. Location. Vehicle parking for new uses is allowed only on approved parking shoulders (streets), within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code.
- B. Off-site Parking. Except for single-~~family-unit~~ dwellings, the vehicle parking spaces required by this chapter may be located on another parcel of land, provided the parcel is within a reasonable walking distance or five hundred (500) feet of the use it serves. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.
- C. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.
- D. Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.
- E. Availability of Facilities. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customer and/or employees, as

applicable.

**17.44.060 Delivery and loading facilities.**

Within the industrial and light industrial zones, delivery and loading facilities are not permitted in required setback areas. On lots abutting parcels zoned general residential or single-family-unit residential, delivery and loading facilities shall be set back a minimum of twenty-five (25) feet from abutting property lines.

**17.44.070 Bicycle parking requirements.**

- A. Minimum Required Bicycle Parking Spaces. Uses shall provide bicycle parking spaces, as designated in the table below.

Table 17.44.070 Minimum Required Bicycle Parking Spaces

Use Categories	Required Spaces
General Residential Uses	
Apartment dwellings, condominium or time share project (Multi-unitfamily – more than 32-family-unit dwellings only)	1 per 6 units
Rooming or boarding house or fraternity	2, or 1 per 20 bedrooms
Commercial Uses	
Church	2, or 1 per 4,000 sq. ft. of net building area
Public or equivalent private or parochial schools	1 per every 4 classrooms, or per conditional use permit review
All other uses	2, or 1 per 12,000 sq. ft. of floor area, or per conditional use permit review
Natural Resource Uses	
Public Parks (active recreation areas only)	2
Industrial or Light Industrial Uses	
All uses	2, or 1 per 40,000 sq. ft. of floor area
Other uses	Determined through Land Use Review, Site Design Review, or conditional use permit Review, as applicable

- B. Exemptions. This section does not apply to single-family-unit and two-family-unit housing (attached, detached, or manufactured housing), home occupations, agriculture, and livestock uses.
- C. Location and Design. Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle parking space. When allowed within a public right-of-way, bicycle parking shall be coordinated with the design of street furniture, as applicable.
- D. Lighting. For security, bicycle parking shall be lit at least as well as vehicle parking.
- E. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.

**17.44.080 Bicycle parking credit.**

- A. Bicycle Parking Credit. Up to twenty-five (25) percent of the amount of required vehicle parking may be reduced by one vehicle parking space for each two off-street bicycle parking spaces provided.

## Chapter 17.46 HOME OCCUPATION PERMITS

### 17.46.010 Purpose.

The purpose of this chapter is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted in all residential units (dwellings), subject to the following standards.

### 17.46.020 Appearance of residence.

- A. The home occupation shall be restricted to lawfully-built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
- B. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
- C. The home occupation shall not violate any conditions of development approval.
- D. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

### 17.46.030 Storage.

- A. Outside storage, visible from the public right-of-way or adjacent properties is prohibited.
- B. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
- C. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

### 17.46.040 Employees.

- A. Other than ~~family members residing~~residents within the dwelling located on the home occupation site, there shall be no employees at the home occupation site at any given time.
- B. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick-up/deliver at the home.
- C. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
- D. Authorization for up to one full-time equivalent (forty (40) hours per week) may be granted but requires one additional off-street parking space. The requirement will be evaluated as a Class A variance in Section 17.68.030(C). Full-time equivalent employee does not include contract service workers that are not specifically required for the home occupation, such as, but not limited to, contractors, house cleaning, handyman, and landscapers.

### 17.46.050 Advertising and signs.

In no case shall a sign exceed six square feet.

#### **17.46.060 Vehicles, parking, and traffic.**

- A. One commercially-licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
- B. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily.
- C. There shall be no more than one client's or customer's vehicle at any one time and no more than eight per day at the home occupation site.

#### **17.46.070 Business hours.**

There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from eight a.m. to eight p.m. only.

#### **17.46.080 Prohibited home occupation uses.**

- A. Any activity that produces radio or TV interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property line is prohibited.
- B. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowable. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or craft instructors, computer software from computer consultants, and similar incidental items for sale by home businesses are allowed.
- C. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as, but not limited to:
  - 1. Ambulance service;
  - 2. Animal hospital, on-site veterinary services, kennels, or animal boarding;
  - 3. Auto or other vehicle repair, including auto painting;
  - 4. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.
- D. Medical marijuana dispensary facilities, whether operating illegally without a business license or registered pursuant to ORS 475.314.
- E. Marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory.

#### **17.46.090 Exceptions.**

The following exceptions to the home occupation chapter shall apply for certain home occupations as listed:

- A. Day Care Home.
  - 1. Vehicle round trips may be increased to sixteen (16).
  - 2. Hours of operation may be expanded to six a.m. to eight p.m.

#### **17.46.100 Enforcement.**

The community development director may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. A city of Toledo business license is

required for all home occupations.

## **Chapter 17.48 ACCESS AND CLEAR VISION REQUIREMENTS**

### **17.48.010 Purpose.**

The purpose of this chapter is to ensure that developments provide safe and efficient access and circulation while recognizing the role that topography plays in development in Toledo.

### **17.48.020 Applicability.**

This chapter shall apply to all public streets within the city and to all properties that abut these streets.

### **17.48.030 Access permit required.**

Access to a public street requires an access permit (a Type I permit) in accordance with the following procedures:

- A. Permits for access to city streets shall be subject to review and approval by the city manager based on the standards contained in this chapter, the city Public Improvements Requirements and Design Standards, the city Transportation System Plan, and/or the Uniform Fire Code as applicable. An access permit may be in the form of a letter to the applicant, attached to a land use decision notice, or included as part of the development review/building permit approval.
- B. Permits for access to state highways shall be subject to review and approval by the Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the city or Lincoln County. In that case, the city or county shall determine whether access is granted based on its adopted standards.
- C. Permits for access to county roads/highways shall be subject to review and approval by Lincoln County, except where the county has delegated this responsibility to the city, in which case the city shall determine whether access is granted based on adopted city standards.

### **17.48.040 Conditions of approval.**

The city or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording reciprocal access easements (i.e., for shared driveways), installation of traffic control devices or traffic safety devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. The city is authorized to require greater requirements for access in accordance with the adopted city standards for permits issued by any jurisdiction within the city limits.

### **17.48.050 Access options.**

When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods. These methods are "options" to the developer unless one method has been specifically required in conjunction with a land use application.

- A. Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not required.

- B. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded to assure access to the closest public street for all users of the private street/drive.
- C. Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access.

**17.48.055 Driveway spacing standards.**

Private Access Driveway Spacing Standards

Functional Classification	Driveway Spacing (measured between curb cuts)
Arterial	40 feet
Collector	20 feet
Local Street (includes Main Street and streets designated as Commercial Streets)	10 feet

**17.48.060 Clear-vision areas.**

A clear-vision area shall be maintained on the corners of all property at the intersection of two streets, a street and alley/mid-block lane, or a street and a railroad.

- A. A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified below in this section or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides.
- B. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and a half feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height eight feet above grade.
- C. The following measurements shall establish clear-vision areas:
  - 1. In residential zones the minimum distance shall be thirty (30) feet, or, at intersections with an alley/mid-block lane, ten (10) feet.
  - 2. In all other zones, the minimum distance shall be fifteen (15) feet, or at intersections with an alley, ten (10) feet, except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.

**Chapter 17.52 LANDSCAPE REQUIREMENTS FOR THE COMMERCIAL, LIGHT INDUSTRIAL, INDUSTRIAL AND WATER-DEPENDENT ZONES**

**17.52.010 Purpose.**

The purpose of this chapter is to promote community health, safety, and welfare by setting development standards for landscaping, street trees, fences and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Walls, fences, trees and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces.

**17.52.020 Requirement to landscape.**

Any new commercial, light industrial, industrial or water-dependent use on an existing vacant lot as of the date of passage of this ordinance or on a lot that subsequently becomes vacant for a period of more than one year are required to provide landscaping as part of the development/building permit process.

- A. The following standards are intended to serve as minimum landscaping and screening standards:
  - 1. A minimum of five percent of the parcel or lot shall be landscaped. If two or more lots are utilized for the use, the five percent requirement shall apply for each lot though the landscaping may be placed or retained on one lot or on each of the lots.
  - 2. A suitable tree (minimum six feet in height at time of planting) shall be planted for every twenty (20) feet (or portion of twenty (20) feet) of lot line fronting any developed street or road. For each tree retained on the proposed development site, the tree planting requirement shall be reduced by one.
  - 3. In selecting trees, the following requirements shall apply:
    - a. If planted near or under power lines, trees must be selected that will grow no higher than twenty-five (25) feet at maturity such as Amur Maple, Vine Maple, Flowering Cherries, and Flowering Plum.
    - b. If planted near sewer or water lines, no cedars, poplars, willows or alders shall be planted because of the potential for line damage from roots.
    - c. If not planted near or under power lines, or near sewer or water lines, then any tree species is acceptable.
  - 4. Trees identified for meeting the landscaping requirement shall be subject to the city of Toledo tree permit or removal requirements.
- B. On commercial, industrial, light industrial, and water-dependent property abutting a residentially zoned property, an evergreen hedge, evergreen trees or sight-obscuring fence must be placed to screen the view of storage areas and operations not enclosed in a building. Fences shall not be less than six feet nor more than eight feet in height. Evergreen hedges or trees shall not be less than six feet in height.
- C. A landscape plan shall be submitted as part of the building permit site plan or as a separate plan in conjunction with a building permit. The landscape plan shall be subject to the approval of the city manager.
- D. An alternative landscape plan may be submitted to the planning commission for consideration as a substitute for the above standards.

## Chapter 17.56 NONCONFORMING USES, ~~AND~~ STRUCTURES, AND LOTS

### 17.56.010 Purpose.

This chapter acknowledges and deals with nonconforming structures, ~~and uses, and lots.~~ The purpose of this section is to preserve those structures and uses as they exist at the time that this ordinance or its amendments become effective, to allow a minimum of further expansion or upgrading and to assure that improvement and change to such structures and uses will, as much as possible, be in accordance with the requirements of this ordinance. The standards and regulations of this code embody the City's vision for the future development of the City. It is the intent of this Code that non-conformances be allowed to continue but that with future development, be brought into conformance with the standards and regulations.

### 17.56.020 ~~Continuation of nonconforming structure and use~~ Repair and Maintenance.

Except as otherwise provided in this chapter, non-conforming developments and premises occupied by non-conforming uses may be repaired and maintained without restriction.

~~Subject to the provisions of this ordinance, a nonconforming structure and a nonconforming use may be continued.~~

### 17.56.030 ~~Change of a nonconforming use~~ Non-conforming Uses.

- A. Discontinuation of Use. If a non-conforming use is discontinued for more than 1 year, or superseded by a conforming use, the non-conforming use shall not be resumed. Any subsequent use shall conform to the underlying zoning district.
- B. Expansion. Except for single unit detached dwellings, a non-conforming use shall not be extended into a different or greater area of a lot. Single unit detached dwellings that are non-conforming uses may be enlarged as long as the dimensional requirements of the General Residential Zone (R-G) are met.
- C. Accessory Dwelling Units (ADUs) are allowed in conjunction with a pre-existing non-conforming single-unit detached house as long as the dimensional requirements of the General Residential Zone (R-G) are met.
- D. Non-conforming dwelling units that are destroyed may be rebuilt within 2-years as long as the dimensional requirements of the General Residential Zone (R-G) are met or the footprint of the structure is unchanged within the property boundaries.

~~If a nonconforming use is changed, it shall be changed to a use conforming to the zoning regulations and, after change, shall not be changed back to the original nonconforming use.~~

### 17.56.040 ~~Discontinuance of a nonconforming use.~~ Non-conforming Structures.

- A. Restoration or Reconstruction. If a nonconforming structure is destroyed by any cause, the structure may not be rebuilt. A Class B variance is necessary to repair or rebuild a significantly damaged nonconforming structure.

B. Alteration. Non-conforming structures may be altered or enlarged provided the addition or alteration is no more nonconforming than the existing structure. If the addition or alteration is within the required side or rear setbacks, the applicant shall present a written statement from the Fire Chief that the expansion will not cause a fire or safety hazard.

~~If a nonconforming use is discontinued from active use for a period of one year, further use of the property shall be for a use conforming with this ordinance.~~

#### **17.56.050 ~~Change of a nonconforming structure~~ Non-Conforming Lots.**

~~A nonconforming structure may be altered or expanded, providing the use of the structure is not changed and the resulting structure conforms with the ordinance requirements for the zone in which the use of the structure would be allowed. If more than one set of requirements is appropriate, the most restrictive set shall apply.~~

A. A vacant non-conforming lot of record may be built upon. Future development shall meet the current development standards unless a variance is applied for.

B. Built Nonconforming Lots. A structure on a nonconforming lot may be expanded or altered provided those changes can meet all the setback and development standards.

#### **17.56.060 ~~Destruction of a nonconforming structure.~~**

~~If a nonconforming structure or use is destroyed by any cause, the structure may not be rebuilt. A Class B variance is necessary to repair or rebuild a significantly damaged nonconforming use or structure.~~

#### **17.56.0670 Completion of building.**

Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, except that if the designated use will be nonconforming it shall, for the purpose of Chapter 17.56, be a discontinued use if not in operation within one year of the date of issuance of the building permit.

## **Chapter 17.60 DEVELOPMENT REVIEW PERMITS**

### **17.60.010 Purpose.**

Development review is required for all types of development requiring a building permit to ensure that the development conforms to the applicable municipal code criteria and/or conditions of approval for an approved land use permit. Development review is a nondiscretionary or "ministerial" review conducted by the city manager without a public hearing. The development review permit is intended to distinguish between the review of an application by the city of Toledo for conformance with the applicable municipal code, fire codes, and other state and federal requirements and the review of the proposed structure under the Uniform Building Code and related codes. The development review permit is a Type I permit.

### **17.60.020 Approval criteria.**

- A. The proposed land use is permitted by the underlying zone.
- B. The land use, building/yard setback, lot area, lot dimension, lot coverage, building height, access requirements, drainage requirements, wetland requirements and other applicable standards have been met.
- C. All applicable fire code standards are met.
- D. The necessary building permit information required by Lincoln County or the city of Toledo has been submitted.
- E. Any necessary variances or other land use permits have been obtained and the application meets any required conditions of approval for those permits.
- F. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within twelve (12) months of development review approval, or if development of the site is in violation of the approved plan or other applicable codes.

## **Chapter 17.64 CONDITIONAL USE PERMITS**

### **17.64.010 Purpose.**

A use is designated as a conditional use within a given zone when it is judged to be generally in line with the purpose of the zone but which could, if not reviewed, have a negative impact on other properties or uses within the zone. The purpose of such a review is to assure adequate site design and compatibility with surrounding uses and property. A review of a conditional use is a Type III review.

### **17.64.020 Authorization to grant or deny conditional use permits.**

Uses designated in this ordinance as permitted conditional uses may be permitted by the planning commission in accordance with the standards and procedures specified in this ordinance. Future significant enlargements or major alterations of a conditional use shall also be reviewed by the commission and new conditions may be imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses which are classified as conditional but which existed prior to the effective date of this ordinance, shall conform to all regulations pertaining to conditional uses.

### **17.64.030 Application submission requirements for conditional use permits.**

A property owner or the owner's authorized agent may initiate a request for a conditional use by filing a completed application with the city manager along with the appropriate fee as set by city council resolution. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed use. The planning commission or city manager may require other drawings or material necessary to an understanding of the proposed use and its relationship to surrounding properties as part of a complete application.

### **17.64.040 Conditions for development.**

The planning commission shall review and make a decision to approve or deny a conditional use request in accordance with the standards and procedures for a Type III review as set forth in Toledo Municipal Code Chapter 19.16.

In approving a conditional use request, the planning commission may impose any conditions determined by the commission to be necessary and appropriate to ensure that the use will comply with all applicable provisions of this section. Such conditions may include, but are not limited to:

- A. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establish a special yard or other open space or lot area or dimension.
- C. Limit the height, size or location of a building or other structure.
- D. Designate the size, number, location or nature of vehicle access points.
- E. Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
- F. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area.
- G. Limit or otherwise designate the number, size, location, height or lighting of signs.
- H. Limit the location and intensity of outdoor lighting or require its shielding.

- I. Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- J. Designate the size, height, location or materials for a fence.
- K. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- L. Specify other conditions to permit development in conformity with the intent and purpose of the conditional classification of development.

#### **17.64.050 Standards governing conditional uses.**

In addition to the standards of the zone in which the conditional use is located and the other standards of this chapter, conditional uses shall meet the following standards:

- A. In addition to other applicable standards of this section, all conditional uses shall comply with the following requirements:
  - 1. The site under consideration is suitable for the proposed use considering:
    - a. The size, design and operating characteristics of the use.
    - b. The adequacy of transportation access to the site.
    - c. The natural and physical features of the site such as general topography, natural hazards, natural resource values, and other features.
  - 2. The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection.
- B. In addition to other standards of the zone in which the conditional use is located, certain uses shall comply with the following additional standards:
  - 1. Utility Substation or Pumping Station. The minimum lot size in the applicable zone may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site. Such development shall be fenced and landscaped as required by the planning commission.
  - 2. Processing and manufacturing operations.
    - a. The facility shall not abut a property zoned general residential or single-family-unit residential.
    - b. The processor shall operate in a wholly enclosed building, except for incidental storage.
    - c. A processing facility shall be no larger than forty thousand (40,000) square feet.
    - d. The processing facility may not shred, compact, or bale ferrous metals other than food and beverage containers.
  - 3. Waste transfer, recycling facility, or scrap metal facility.
    - a. Facilities must be fenced and shall be secured from unauthorized entry and the removal of materials when attendants are not present.
    - b. Facilities and storage shall be located no closer than thirty (30) feet from any property line.
    - c. Hours of operation shall be established, and the facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
    - d. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.
    - e. Space shall be provided on the site for the anticipated peak load of customers to circulate, park, and deposit recyclable materials.
    - f. Containers provided for after-hours donations of recyclable materials shall

- be at least fifty (50) feet from any property zoned general residential or single-~~family-unit~~ residential, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate the materials collected, and shall be secure from unauthorized entry or the removal of materials.
- g. Donation areas shall be kept free of litter, odors, pests, and any other undesirable material. The containers shall be clearly marked to identify the type of material, which may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.
4. Marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, and marijuana laboratory.
- a. The use shall not abut a property in the general residential (R-G) or single-~~family-unit~~ residential (R-G) zones or Lincoln County residential land use zones.
  - b. The use may be co-located with a medical marijuana grow site or medical marijuana dispensary facility, if allowed by state law and regulation, provided such use is properly licensed.
  - c. The use shall not be located within one thousand (1,000) feet of a private or parochial elementary or secondary school, teaching children as defined in ORS 339.030(1)(a).
  - d. The use shall not be located within one thousand (1,000) feet of a public elementary or secondary school whose attendance is compulsory under ORS 339.020.
  - e. The facility where the use takes place shall be no larger than forty thousand (40,000) square feet.
  - f. The use shall not be located within one thousand (1,000) feet of another medical or recreational marijuana facility, including a marijuana producer, marijuana processor, marijuana retailer, marijuana wholesaler, marijuana laboratory, medical marijuana dispensary facility, or medical marijuana grow site. This one thousand (1,000) feet requirement from property line to property line in a straight line measurement is not meant to prohibit more than one of the uses described in this subsection 4.f. from being co-located. More than one of the uses in this subsection 4.f. may be co-located, but only for the period of time, and as allowed, by state law and regulation.
  - g. Drive-through recreational marijuana facilities in any zone are prohibited.
  - h. The proposed use must be located inside a permanent building. Outdoor storage of any merchandise or plants is not allowed.
  - i. The proposed use requires continued compliance with all state, city, and federal law, excluding marijuana's classification as a controlled substance under the federal Controlled Substances Act.

#### **17.64.060 Time limit on approval of a conditional use.**

- A. Except as provided in subsection B of this section, authorization of a conditional use shall be void after ~~one-two~~ years if a building permit has not been issued or development has not begun.
- B. The authorization may be extended by the planning commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization. Conditional uses approved prior to this ordinance may apply for 1 additional year for a total of 3-year approval.

|

## Chapter 17.68 VARIANCES

### 17.68.010 Purpose.

The purpose of this chapter is to provide flexibility to development standards in recognition of the complexity and wide variation of site development opportunities and constraints in Toledo. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Because some variances are granted using "clear and objective standards," and the impact, if any, on adjacent property owners is negligible, they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or Type III procedure because they involve discretionary decision-making or the potential for more substantial changes that may have some impact on the adjacent property owners.

### 17.68.020 Classes of variances.

Three types of variances shall be allowed under the zoning regulation:

- A. A "Class A" variance is a variance requiring staff level approval only and is intended to apply to situations where the exercise of discretion by staff is minimal because the factual situation is relatively straightforward. A Class A variance is reviewed through a Type I procedure and a decision on the Class A variance is the final decision of the city.
- B. A "Class B" variance is a variance requiring staff level approval and is intended to apply to situations which require a greater exercise of discretion and in which the factual situation is complex. A Class B variance is reviewed as a Type II procedure and a decision on the Class B variance may be appealed to the planning commission.
- C. A "Class C" variance is a variance requiring planning commission approval and is intended to apply to situations in which the exercise of discretion is greater and the factual situation may be complex. A Class C variance is reviewed as a Type III procedure and a decision on the Class C variance may be appealed to the city council.

### 17.68.030 Class A—Variances.

After determining that the applicable conditions exist, the city manager shall grant a request for a variance to the following ordinance requirements.

- A. Class A—Variance to Front Yard setback Requirements. In the case of residential dwellings, the following variance to the front yard setback requirement is authorized for a lot in any zone: If there are dwellings on both abutting lots with front yards of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the depth of the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.
- B. Class A—Variance to Building Height Limitations. A variance for the following types of structures or structural parts from the building height requirements of this ordinance are allowed as long as they do not exceed fifty (50) feet from grade: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors, and other similar projections.
- C. Class A—Variance for Home Occupation Employees. Home occupations do not allow

for on-site employees. A variance from this provision would allow up to one full-time equivalent employee (forty (40) hours per week). An off-street parking space must be available to the employee. There can only be one employee on-site at a time. A site plan and employee schedule must be part of the application. Full-time equivalent employee does not include contract service workers that are not specifically required for the home occupation, such as, but not limited to, contractors, house cleaning, handyman, and landscapers.

- D. Class A—Variance to Front Yard Setback for Unenclosed Porches/Decks. A variance for unenclosed porches/decks is allowed for intrusion into an established front yard setback of up to seven feet as long as there is no encroachment into a public utility easement.

#### **17.68.040 Class B—Variances.**

- A. Class B—Variance to Setbacks. A variance to the front yard setback requirement of up to five feet and for any other setback up to fifty (50) percent is authorized as follows:
1. For residential zones, a majority of houses on an existing block have front yard setbacks of less than the required depth and the number of vacant lots does not exceed twenty (20) percent of the total lots on the block, or
  2. The topography of the lot, such as steep slopes or the location of a natural drainage source such as an intermittent stream, makes it difficult to build to the yard setback requirement, or
  3. The variance would allow the preservation of an existing tree(s) or other natural resource, and
  4. The variance would not create any public safety issues such as a clear-vision problem.
- B. Class B—Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the city may grant a variance to the access requirements after finding the following:
1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement,
  2. There are no alternative access points on the street in question or from another street,
  3. The request is the minimum adjustment required to provide adequate access,
  4. The approved access or access approved with conditions will result in a safe access, and
  5. The clear-vision requirements will be met.
- C. Class B—Variance to Parking Requirements. Variances to the municipal parking requirements are authorized in the commercial, light industrial, and industrial zones of up to twenty (20) percent of the required off-street parking if:
1. Topographical conditions exist on the lot such as steep slopes, location of natural drainage course, or high groundwater table, or
  2. The variance would allow the preservation of trees or other natural resource, and
  3. Adequate setbacks, clear vision, access, and compliance with the Americans with Disabilities Act requirements are assured, and
  4. The proposal comes as close to meeting ordinance requirements as conditions allow.
- D. Class B—Variance to Rebuild a Destroyed Nonconforming Structure. Section 17.56.060 allows rebuilding a partially damaged nonconforming structure as long as it is not made

to be more nonconforming. It also precludes the rebuilding of a totally destroyed nonconforming structure. A variance to this section can be applied for and will be evaluated against the following criteria:

1. Public response;
2. Livability and effects on adjacent and surrounding properties;
3. Circumstances pertinent to the property in question that are beyond the control of the applicant;
4. No other provisions of the municipal codes are violated;
5. Effected natural resources;
6. No public safety issues are created;
7. The requested variance is the minimum necessary.

#### **17.68.050 Class C—Variances.**

- A. Class C—Variance to Lot Size. The planning commission may grant a variance to the minimum lot size requirements in the single-family-unit residential and the general residential zones if:
  1. There is a peculiarity in lot configuration for lots of record existing prior to 1982, or
  2. The variance would alleviate an existing nonconforming use or structure, and
  3. Setbacks, clear vision, access and off-street parking requirements are met, and
  4. The variance would not unduly burden city services such as streets, parks, water and sewer, and
  5. The new lot or lots are no less than eighty-three (83) percent of the size required by the ordinance.
- B. Class C—Variance to Building Height. The planning commission may grant a variance to the building height limitation in residential zones if:
  1. The lot size is increased by twenty (20) square feet over the minimum lot size requirement for every five feet or fraction thereof of additional height,
  2. The Toledo Fire Chief is satisfied that the proposed structure can be adequately protected in case of fire, considering, at least, fire flow, proximity to fire hydrants, access, and limitations of fire fighting equipment, and
  3. The additional building height does not significantly increase shade to neighboring property and does not infringe upon neighborhood privacy.
- C. Class C—Variance to Toledo Public Improvement Requirements and Design Standards. The planning commission may grant a variance to the street standard requirements of the Toledo Public Improvement Requirements and Design Standards if:
  1. The request is in conjunction with a development other than a subdivision or planned development, and
  2. The topography of the subject property or the access way to the property makes the development of the access way to the full standards impracticable because full access way development would require such things as substantial cuts in slope or the filling of a wetland area, and
  3. The property is sufficient size and adequate topography to accommodate the proposed development, and
  4. The width of the access way is sufficient to meet the traffic demands of the development, and
  5. The improved surface is sufficient considering the traffic, necessary drainage, geological and topographical factors affecting construction, long-term maintenance and durability of the surface, and the needs of emergency and utility

- vehicles, and
6. The improvements required of the development are roughly proportional to the impact created by the development, and
  7. The Uniform Fire Code standards and all other ordinance requirements are met, unless specifically excepted, including but not limited to parking and clear vision requirements.
- D. Class C—Variance Request to Other Standards or for Variances Greater than those Authorized Under Class A and Class B Variances. The planning commission, before approving an application for a variance to a zoning code requirement not specified above, shall consider the location, size, design and operation characteristics of the proposed development requiring the variance and shall determine whether it complies with one of the following criteria. If the development does not so comply, the commission shall deny the application.
1. The variance will cause no significant adverse impact of the livability, value, or appropriate development of abutting property or the surrounding area when compared to the impact of permitted development that does not require a variance.
  2. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control.
  3. The use proposed will be the same as permitted under the code and the requirements of the code will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.
- E. In addition to compliance with the criteria as determined by the planning commission identified in subsections (A)—(D) above, the applicant must accept those conditions listed below that the commission finds are appropriate to obtain compliance with the criteria.
1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
  2. Establish a special yard or other open space or lot area or dimension.
  3. Limit the height, size or location of a building or other structure.
  4. Designate the size, number, location or nature of vehicle access points.
  5. Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
  6. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area.
  7. Limit or otherwise designate the number, size, location, height or lighting of signs.
  8. Limit the location and intensity of outdoor lighting or require its shielding.
  9. Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
  10. Designate the size, height, location or materials for a fence.
  11. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
  12. Specify other conditions to permit development in conformity with the intent and purpose of the ordinance standards.

**17.68.060 Time limit on approval of a variance.**

- A. Except as provided in subsection B of this section, authorization of a variance shall be void after one year if a building permit has not been issued or development has not begun.
- B. The authorization may be extended by the planning commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

## Chapter 17.72 RESTRICTIVE LOT LINE COVENANTS

### 17.72.010 Purpose.

To recognize that historical subdivisions of land in Toledo have not been platted in relationship to the topography of the property, that some lots have been historically treated as one piece of property, and that topographical or other constraints may severely limit the use of one lot such that the use of abutting lots is a reasonable alternative. The restrictive lot line covenant is an agreement between the city and the owner of multiple lots to treat the multiple lots as one lot for the purposes of the municipal code to allow the property owner to treat the multiple lots as one lot for the placement of a home, for the placement of an accessory building, or other purposes common to residential ownership of land and the property owner agrees to convey the lots as a single ownership.

### 17.72.020 Approval process.

- A. Application. An application for a restrictive lot line covenant shall be processed as a Type II procedure. The application shall meet the requirements for submitting the application as established by the city manager. The applicant shall bear the cost of recording with Lincoln County associated with the restrictive lot line covenant.
- B. Criteria, Standards, and Conditions of Approval. The city shall approve, approve with conditions, or deny an application for a restrictive lot line covenant based on findings of fact for the following standards and criteria:
  - 1. The applicant has multiple legal lots that are under a common ownership and are abutting; and
  - 2. The applicant desires to retain the lots as separate legal lots or a process for combining the lots into one lot is not available; and
  - 3. Treating the multiple lots as one lot for municipal code purposes would not result in the violation of other sections of the municipal code or other applicable codes; and
  - 4. The topography of the legal lots is such that except for the topography of the property, the proposed permitted use outright necessitating the request for a restrictive lot line covenant could be accommodated on one lot; or
  - 5. Significant alterations of steep slopes, wetlands, natural drainage patterns, or other natural resources can be minimized by treating the abutting legal lots as one lot; or
  - 6. The size of the legal lots is such that one or more of the lots are substandard but together the lots meet the size requirements for the applicable zone; or
  - 7. The use proposed is an approved conditional use and the nature of the use is such that if the conditional use was located in a zone where the use was permitted outright, the interior lot lines between the abutting properties would not require setbacks; or
  - 8. Open space, forested area, scenic views, or other similar amenity contributing to the enjoyment of the owner's use of property and/or to the livability of the community as a whole can be preserved.

### 17.72.030 Removal of restrictive lot line covenant.

A property owner may request that the Restrictive Lot Line Covenant be removed and the city

shall grant such request provided that:

- A. The lots subject to the agreement do not result in any nonconforming uses, nonconforming lots, or nonconforming structures that did not exist prior to the date of execution of the covenant; and
- B. All other municipal code and state requirements then current will be met by the lots subject to the covenant.

## **Chapter 17.80 AMENDMENTS**

### **17.80.010 Purpose.**

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this code and the comprehensive land use map or zoning map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

### **17.80.020 Authorization to initiate amendments.**

An amendment to the text or the maps of this title may be initiated by the city council, by the planning commission, or by application of a property owner.

### **17.80.030 Legislative amendments.**

Legislative amendments are policy decisions such as the amendment to a comprehensive land use map or the municipal code made by the city council. They are reviewed using the Type IV land use procedure as set forth by ordinance.

### **17.80.040 Quasi-judicial amendments to maps.**

Quasi-judicial map amendments are those map amendments which require discretion in applying existing standards or criteria to a request. The approval authority for quasi-judicial amendments shall follow the Type III land use procedure as set forth by ordinance and the approval authority shall be as follows:

- A. The planning commission shall decide zoning map changes which do not involve comprehensive plan map amendments;
- B. The planning commission shall make a recommendation to the city council on an application for a comprehensive plan map amendment. The city council shall decide such applications; and
- C. The planning commission shall make a recommendation to the city council on a zoning map application which also involves a comprehensive plan map amendment application. The city council shall decide both applications.

### **17.80.050 Criteria for quasi-judicial map amendments.**

A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

- A. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite for approval;
- B. Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances;
- C. Evidence of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use maps regarding the property which is the subject of the application.

### **17.80.060 Conditions of approval.**

A quasi-judicial decision may be for denial, approval, or approval with conditions necessary to bring an amendment into compliance with an applicable criteria. A legislative decision maybe approved or denied.

### **17.80.070 Record of amendments.**

The city manager shall maintain a record of amendments to the text of this code and the land use maps in a format convenient for public use including the update of the official version of the maps on Geographic Information Systems as applicable.

## Chapter 17.84 CODE INTERPRETATIONS

### 17.84.010 Purpose.

Some terms or phrases within the municipal code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the code text.

### 17.84.020 Code interpretation procedure.

- A. Requests. A request for a code interpretation ("interpretation") shall be made in writing to the city manager with or without a pending application. The city manager may develop written guidelines for the application process and the city council may require an application fee.
- B. Decision to Issue Interpretation. The city manager shall have the authority to review a request for an interpretation. The city manager shall advise the requester in writing within fourteen (14) days after the request is made, on whether or not the city will issue the requested interpretation.
- C. Declining Requests for Interpretation. The city manager is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject municipal code section affords only one reasonable interpretation and the interpretation does not support the request. The city manager decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation.
- D. Written Interpretation. If the city manager decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the Interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within fourteen (14) days after the city advises the requester that an interpretation shall be issued. The decision shall become effective fourteen (14) days later, unless an appeal is filed in accordance with Section 17.84.030.

### 17.84.030 Appeals.

The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the city council within fourteen (14) days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the city manager pursuant to the requirements set forth by ordinance.

- A. Appeal Procedure. The city council shall hear all appeals of a city manager interpretation as a Type III action, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.
- B. Final Decision/Effective Date. The decision of the city council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the city council's decision is filed, the decision remains effective unless or until it is modified by the land use board of appeals or a court of competent jurisdiction.

### 17.84.040 Interpretations on file.

The city manager shall keep on file a record of all code interpretations.

## Chapter 17.88 LEGAL FRAMEWORK

### 17.88.010 Enforcement.

The city manager shall have the power and duty to enforce the provisions of this chapter.

### 17.88.020 Interpretation.

The provisions of this chapter shall be held to be with the minimum requirements fulfilling its objectives. Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provisions, of this chapter or of any other ordinance, resolution or regulations, the provisions which are more restrictive shall govern.

### 17.88.030 Fees.

All fees required by this chapter shall be in the amount set by resolution of the city council.

### 17.88.040 Severability.

The provisions of this chapter are hereby declared to be severable. If any section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

### 17.88.050 Penalty.

A person violating a provision of this chapter shall be punished upon conviction by a civil penalty as a Class B infraction (a fine not to exceed five hundred dollars (\$500.00) and shall be deemed guilty of a separate offense for each day during which the violation continues. This remedy is not intended to be exclusive and the city of Toledo may pursue any other remedy available to it by law.

## Title 19 Land Use Procedures

### 19.24.010 - 120-day rule.

The city shall take final action on permit applications which are subject to this title, including resolution of all appeals, within one hundred twenty (120) days from the date the application is deemed as complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The one hundred twenty (120) day rule does not apply to Type IV legislative decisions-plan and code amendments under ORS 227.178.)

- A. A decision involving an application for the development of residential structures within the urban growth boundary, where the City has tentatively approved the application and extends the 120 days by no more than seven days in order to assure the sufficiency of its final action.

### 19.20.040 Notice of Hearing

4. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and land use municipal code amendments at least ~~forty~~thirty-five (345) days before the first public hearing at which public testimony or new evidence will be received.

# CITY OF TOLEDO LAND DIVISION ORDINANCE CODE

## Toledo Municipal Code Title 16

### SUBDIVISIONS LAND DIVISIONS

#### **Chapters:**

- Chapter 16.04 - GENERAL PROVISIONS
- Chapter 16.06 - TRANSPORTATION FACILITY STANDARDS
- Chapter 16.08 - MINOR AND MAJOR LAND PARTITIONS
- Chapter 16.12 - SUBDIVISIONS
- Chapter 16.16 - PLANNED DEVELOPMENT PROCEDURES
- Chapter 16.20 - EXPEDITED LAND DIVISIONS
- Chapter 16.24 - REPLATTING WITHIN SUBDIVISIONS AND PARTITIONS
- Chapter 16.28 - LOT LINE ADJUSTMENTS
- Chapter 16.30 - ADJUSTMENTS AND VARIANCES
- Chapter 16.32 - LEGAL FRAMEWORK

#### **Chapter 16.04 GENERAL PROVISIONS**

##### **Sections:**

- 16.04.010 Title.
- 16.04.020 Purpose.
- 16.04.030 Application date.
- 16.04.040 Definitions.
- 16.04.050 General requirements and minimum standards of design and development.
- 16.04.060 Approval of expedited land divisions, partitions, subdivisions and major replats.
- 16.04.070 Notice for public hearings.
- 16.04.080 Appeals.
- 16.04.090 Amendments.

##### **16.04.010 Title.**

The title of this title is the Toledo land division ordinance code.

#### **16.04.020 Purpose.**

The purpose of this title is to prescribe standards and procedures ~~for minor and major partitions and subdivisions of land and planned development within the city of Toledo~~ to provide for orderly, safe and efficient division of land within the City, and to aid in the implementation of the Toledo comprehensive ~~land-use~~ plan. The provisions of this title shall apply to all land divisions, replats and lot line adjustments within the City of Toledo. Oregon Revised Statutes (ORS) Chapter 92 governs all land divisions. This chapter permits the City to develop its own procedures and review criteria. The following shall determine the appropriate process and design standards:

- A. Partition. A land division creating two or three parcels within a calendar year shall be processed as a Partition and subject to the design and improvement standards for a Partition in Chapter 16.08.
- B. Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision in Chapter 16.12.
- C. Planned Development. A land division that utilized unique design principles and reduced lot sizes shall be processed as a Planned Development and subject to the design and improvement standards in Chapters 16.12 and 16.16.
- D. Replats. The amendment of a previously recorded subdivision or partition plat shall be processed as a Replat and subject to the requirements of Chapter 16.24.
- E. Lot Line Adjustment. The adjustment of the common boundary between two lots or parcels that are not within a recorded plat shall be processed as a Lot Line Adjustment and subject to the requirements of Chapter 16.28.

#### **16.04.030 Application date.**

This title shall apply to all land divisions which have not been filed with the city manager before the effective date of the ordinance codified in this title.

#### **16.04.040 Definitions.**

The terms and phrases used in this title are defined as follows:

"Alley" means a public way of not over twenty (20) feet wide providing a secondary means of access to private property.

"Bicycle path" means a bicycle way with concrete or similar permanent surfacing.

"Building line" means a line on a plat, parallel to the road right-of-way, indicating the limit beyond which buildings or structures may not be erected, or the minimum distance as prescribed by the Toledo zoning ordinance between the front property line abutting a road and the closest point of the roof line of any building or structure on the land often referred to as a setback line.

"City" means the city of Toledo, Oregon.

"City manager" means the city manager of the city of Toledo, Oregon, or his/her designate(s).

"City recorder" means the city recorder of the city of Toledo, Oregon, or his/her designate(s).

"City street" means a public roadway which has been dedicated to the public and accepted by the city and created to provide ingress or egress to one or more lots, parcels, areas or tracts of land, including the terms "street," "highway," "lane," "avenue," "road" or similar designations. For the purpose of Title 16, the term "city street" also includes improved public roadways dedicated to the public and accepted and maintained by either Lincoln

County or the Oregon Department of Transportation.

“Collector Road” means a moderate traffic volume street that accommodates shorter local trips and balances the need for local property access and through traffic. Collector streets connect residential traffic on local streets with other collector and arterial streets.

“Commercial Road” means a low speed, low traffic volume street that is within or adjacent to land zoned commercial or industrial with a high percentage of freight truck traffic. Commercial streets provide frontage and direct access for commercial and industrial uses.

"Comprehensive ~~land use~~ plan" means the plan adopted by the city to serve as a guide to the orderly growth, development and improvement of the city, including a written text with goals and policies, a diagrammatic map of desired land use allocations, and any amendments to such text and map.

"Commission" means the Toledo planning commission.

"Council" means the Toledo city council.

"Curbline" means the line indicating the edge of the vehicular roadway within the overall right-of-way.

"Dividing or division of land" means to segregate an area or tract of land into two or more parcels.

"Easement" means the grant of a right-of-way use for a specific purpose, such as an easement for utility purposes across a parcel of land.

"Expedited land division" means a division of land for which an applicant specifically applies for an expedited land division and which meets the standards of ORS Section 197.360 as modified by city of Toledo standards noted in Section 16.20.030.

~~"Flooding" means the rise of a natural stream or other water body to the level at or above the intermediate regional flood, otherwise known as the one hundred (100) year flood, as determined by the U.S. Army Corps of Engineers, which periodically covers an area of land that is not under water at other times.~~

“Local Road” means a low speed, low traffic volume street that connects local traffic to collector and arterial streets and prioritizes local access to residences and businesses over through traffic.

"Lot" means a unit of land that is created by a ~~partition or~~ subdivision of land as defined by this title.

"Lot line adjustment" means a modification to lot lines or parcel boundaries which do not result in the creation of new lots and includes the consolidation of lots.

~~“Manufactured dwelling” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. For general classification purposes, manufactured dwellings also include:~~

- ~~1. Residential trailers constructed before January 1, 1962.~~
- ~~2. Mobile homes constructed between January 1, 1962, and June 15, 1976, which met Oregon construction standards then in effect; and~~
- ~~3. Manufactured homes constructed to federal standards.~~

–“Multi-Use Path” means a pathway used by cyclists, pedestrians, skaters, joggers, wheelchair users and others that are physically separated from and prohibit motorized traffic. Multi-use paths may be located within a street right-of-way and the surface may be paved, gravel, or accommodated with a boardwalk. Paths can be used for either recreational or transportation purposes. See standards under Section 16.06.030.

“Net buildable area” means the horizontal area of a tract, parcel, or lot of land remaining after subtracting from the gross area of the tract, parcel, or lot the areas identified as wetlands on the Oregon Department of State Lands’ on-line Statewide Wetlands Inventory Map, or as shown on an approved wetlands delineation, any areas having a slope of 15% or more, areas identified as SFHA, or other natural hazards that would limit development.

"Natural hazard" means a natural event which can result in personal injury or property damage, such as flooding, landslides, soil erosion, or other damage resulting from water or soil movement.

"Owner" means the person who has ownership of land.

"Ownership" means the existence of legal or equitable title to land.

"Parcel" means a tax lot created by the ~~division~~ partitioning of land.

"Partitioning or partitioned land" means to divide a tract of land into two or three parcels (including the parent parcel) within one year of the date of the first segregation where such area or tract of land existed as a unit or contiguous units of land under a single ownership at the time of such segregation. "Partitioned land" does not include division of land resulting from the creation of cemetery lots; ~~and "partitioned land" does not include any~~ the 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 the zoning ordinance. "Partitioned land" does not include the sale of a lot in a recorded subdivision; even though the lot may have been acquired prior to sale with other contiguous lots or properties by a single ownership selling or granting land to a public agency or public body of property for highway purposes; or selling or granting of land by a public agency or public body which is excess property resulting from the acquisition of land for highway purposes.~~

"Major partition" means the partition of land which does not meet the standards for an expedited land division and which necessitates the creation of a street as a method of providing access.

"Minor partition" means the partition of land which does not meet the standards for an expedited land division and which does not necessitate the creation of a street.

"Pedestrian or bicycle way" means a right-of-way for pedestrian or bicycle traffic.

"Person" means and includes a natural person, firm, partnership, association, domestic or foreign corporation, joint stock company, trust or any incorporated organization.

"Planned development" means the development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, bulk or type of building, density, lot coverage or required open space to the regulations otherwise required by the city of Toledo zoning ordinance.

"Plat" means the map, diagram, replat and other writing containing the description, location, specifications, dedications, provisions and all other requirements pursuant to Chapters 16.08, 16.12, 16.16 and 16.20 of this title regulating partitions, subdivisions, and planned developments within the city.

“Principal Arterial” road means a high traffic volume and limited access street that accommodates long-distance trips between and through urban areas. Principal arterials have little to no local residential and commercial access and prioritize through movement, connecting mainly to arterials and collectors. US 20 is the only principal arterial in Toledo and is owned and maintained by the Oregon Department of Transportation (ODOT).

"Record" means to submit documents to the clerk of Lincoln County for the purpose of placing them in official public evidence.

"Replat, major" means the reconfiguring of lots in a recorded subdivision plat that results in either the creation

of four or more additional lots or the deletion of four or more lots within a twelve (12) month period.

"Replat, minor" means the reconfiguring of a portion of the lots in a recorded subdivision or partition plat that results in three or fewer lots being created or deleted within a twelve (12) month period.

"Shared-use Shoulder" means a paved shoulder adjacent to a street travel lane for use by bicyclists and pedestrians. Shared-use shoulders occur on streets that do not include a constructed curb and gutter and lack sidewalks or bikeways.

"Sidewalk" means a hard-surfaced walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb or planter strip. See standards in Section 16.06.030.

"Single ownership" means a person or group of persons who either singularly or jointly own a contiguous ~~unit~~ area of land.

~~"Structure" means a building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground.~~

"Subdivide land" means to divide an area or tract of land into four or more ~~parcels~~ lots (including the parent parcel) within one year of the date of the first segregation when such area or tract of land existed as a unit or contiguous units under a single ownership at the time of such segregation.

"Subdivision" means an area of land that has been subdivided.

"Subdivider" means any person who undertakes the subdivision of land for the purpose of transfer of ownership or development at any time, whether immediate or future.

"Tract" means a contiguous area of land which exists or has existed in single ownership.

"Transportation Facilities" means a physical facility used to move people and goods from one place to another (i.e., streets, sidewalks, pathways, bike lanes, transit stations, bus stops, etc.).

"Transportation Improvements" means a transportation facility improvement to include, but are not limited to:

1. Normal operation, maintenance, repair, and preservation activities associated with existing transportation facilities.
2. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way
3. Projects specifically identified in the City's adopted Transportation System Plan
4. Landscaping as part of a transportation facility.
5. Emergency measures necessary for the safety and protection of property or the public.
6. Construction of a street or road as part of an approved subdivision or partition consistent with the City's adopted Transportation System Plan.
7. Construction of a street or road as part of an approved subdivision or land partition approved in accordance with the applicable land division ordinance.

#### **16.04.050 General requirements and minimum standards of design and development.**

The following are the minimum requirements and standards to which partitions and subdivisions must conform before approval:

- A. Conformity to the Comprehensive Plan. All ~~partitions and subdivisions~~divisions of land shall conform with all adopted portions of the comprehensive plan, transportation system plan, and all applicable ordinances and design standards of the city. ~~Traffic-Transportation facilities (including streets, pedestrian paths and bicycle paths)~~, community and neighborhood facilities and recreational areas should be placed in approximately the same locations designated by the comprehensive plan, water master plan, wastewater facilities plan, parks master plan, and transportation system plan.
- B. Access. The ~~partitioning and subdividing~~division of land shall provide each lot or parcel, by means of a fully developed city street, satisfactory vehicular access to an existing street pursuant to Chapter 16.06 of this Code. The city street for the entire length which is adjacent to the parcel or lot which is being ~~partitioned or subdivided~~divided must be a fully developed city street unless an exception is granted as per the following standards and procedures:
1. ~~Partitions and subdivision~~Divisions of land that require the creation of a public street to serve the proposed lots shall comply with the requirements of the Public Infrastructure Design Standards Manual~~adopted street standards~~ and shall include the public dedication of the required right-of-way in the adopted street standards, except as varied under Section 16.30;
  2. ~~Partitions and subdivision~~Divisions of land with frontage along an existing city, county, or state street or that are accessed via an existing city, county, or state street shall be required to make such improvements as necessary to address the impacts of the proposed development on those streets provided the required improvements are roughly proportional to the impacts created by the proposed development. If the required improvements are roughly proportional to the impacts created by the proposed development, but the planning commission determines that because of the existing street conditions, topography, or other similar factor that requiring the improvements to be completed prior to platting the property is an inefficient method of obtaining the improvements, the planning commission can allow the applicant to provide a deferred improvement agreement, bond, irrevocable petition for public improvements, or similar mechanism for obtaining the completion of the required improvements at a later date.
  3. Residential lots or parcels may be accessed by a private access easement (joint use driveway) developed in accordance with the provisions below when it is determined that a public access is: 1) infeasible due to the parcel shape, terrain, or location of existing structures; 2) unnecessary to provide for the future development of adjoining property, and 3) no more than 10% of the lots within a subdivision may be accessed by a private street or private access easement. Where permitted, the access easement shall comply with the following standards:
    - a. Width.
      - i. Minimum easement width: 20 feet
      - ii. Minimum paved width: For private access of 150' or less and serving one lot - 12 feet; serving two lots - 16 feet. For private access of more than 150' – 18 feet.
    - b. Maximum length: 200 feet
      - iv. No more than four lots shall have their sole access to the easement. Easements serving more than two lots shall comply with provisions for a Residential Neighborhood Street in the Public Infrastructure Design Standards Manual. If lots are created by a land division under ORS 92.031 (missing middle land divisions) there may be more than four lots with sole access to a private access easement.
    - c. Surface Improvement. The surface width noted in a.ii above shall be improved with either asphaltic or Portland cement concrete for the entire length of the private access easement or with another surface approved by Public Works and Fire.

- d. Maintenance. Provision for the maintenance of a private access driveway shall be provided in the form of a maintenance agreement, homeowners' association, or similar instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final plat.
- e. Turn-around. A turn-around shall be required for any access easement which is the sole access, and which is either in excess of 150 feet or which serves more than one dwelling. Turn-arounds shall comply with the design provisions requirements of the Toledo Fire Department.
- f. Fire Lanes. All private access easements shall be designated as fire lanes and signed for "no parking." All private access easements and joint use driveways shall comply with the International Fire Code.
- a.g. Where The City approves a private access easement or joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the City for its records, but the City is not responsible for maintaining the driveway or resolving any dispute between property owners.

C. Relation to the Adjoining Street System. ~~Major partitions and subdivisions~~ Divisions of land shall provide for the continuation of the city streets existing in the adjoining neighborhood and for the proper street extensions when the adjoining properties are divided or developed. If the city adopts a plan for the neighborhood or area of which the ~~partition or subdivision~~ division of land is a part, the ~~partition or subdivision~~ division of land shall conform to such neighborhood or area plan. If the topographical conditions make such continuation or conformity impractical, adjustments or variances may be approved under Section Chapter 16.30. Off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible.

D. Density. All ~~subdivisions~~ divisions of land within residential zones shall create enough parcels or lots to allow building residential units to meet the ~~higher of the~~ following density standards:

1. ~~Fifty (50) percent or more of the maximum net density permitted (based upon the minimum lot size for a single family residence)~~ In the R-S zone there shall be a minimum of 4.0 lots per net residential acre.; or
2. ~~Eighty (80) percent or more of the maximum net density permitted (based upon the minimum lot size for a single family residence) minus all areas which have slopes of fifteen (15) percent or more, are wetlands or have other topographical features which, in the opinion of the planning commission, preclude development of portions of the site because to develop those portions would require noncompliance with the comprehensive plan, development ordinances or design standards;~~ In the R-G zone there shall be a minimum of 4.5 lots per net residential acres.
3. ~~Example: The following example is to act as a guide to meeting this standard. A ten (10) acre parcel is to be subdivided. A street will be provided and dedicated to the public. The street will remove two acres from the usable space for lots leaving a net of eight acres. The property is zoned RG which has a minimum lot size of six thousand (6,000) square feet.~~

~~a. Thus the calculation for the minimum number of lots to be provided is:~~

~~10 acres – 2 acres = 8 acres net buildable~~

~~8 acres × 43,560 square feet = 348,480 square feet~~

~~348,480 square feet / 6,000 square feet = 58.08 lots~~

$$58.08 \text{ lots} \times .50 = 29.04 \text{ units}$$

29.04 units is rounded to 29 units minimum required

~~b. The following example is to act as a guide to meeting this standard. A ten (10) acre parcel is to be subdivided. A street will be provided and dedicated to the public. The street will remove two acres from the usable space for lots leaving a net of eight acres. However, there are three acres of wetlands and one and one-half acres which have greater than fifteen (15) percent slopes. Thus the net, net developable area is three and one-half acres. The property is zoned RG which has a minimum lot size of six thousand (6,000) square feet. Thus the calculation for the minimum number of lots to be provided is:~~

$$10 \text{ acres} - 2 \text{ acres} = 8 \text{ acres net}$$

$$8 \text{ acres} - 3 \text{ acres} - 1.5 \text{ acres} = 3.5 \text{ acres net buildable}$$

$$3.5 \text{ acres} \times 43,560 \text{ square feet} = 152,460 \text{ square feet}$$

$$152,460 \text{ square feet} / 6,000 \text{ square feet} = 25.41 \text{ lots}$$

$$25.41 \text{ lots} \times .80 = 20.33$$

20.33 units is rounded to 20 units minimum required

~~Twenty-nine (29) units required is greater than twenty (20) units required, therefore twenty-nine (29) lots must be created for the subdivision to be approved. These units will have to be clustered away from the wetlands and the fifteen (15) percent slope areas. As a special note to provide additional guidance to the planning commission: if there are areas which cannot be served due to topographical reasons such as the roads cannot be built to meet the city's standards, all of the undevelopable area could be excluded by the planning commission in calculating the minimum density required.~~

4. ~~All partitions land divisions within residential zones where the subject parcel can be further partitioned divided, shall be partitioned divided in a manner that does not preclude the efficient division of land in the future. As an alternative, the applicant has demonstrated that lots are not likely to be divided further because of the existing topography, wetlands, or other features make such a division unavoidable.~~

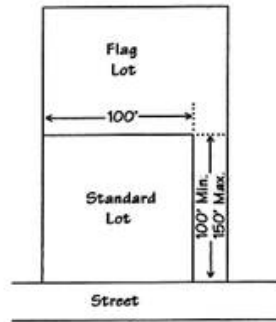
E. ~~Lots, Parcels, Topography, or Past Development Patterns~~ Standards for Lots or Parcels.

1. Minimum Lot Area. Lot area shall conform to the requirements of the zoning district in which the parcel is located. Access easements, or the access strip to a flag lot, shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Development Code.
2. Every lot and parcel shall abut and take primary ingress and egress from a city street, ~~county road,~~ ~~or state highway~~ and the frontage of each shall not be less than twenty-five (25) ~~feet~~ in nonresidential zones, ~~or~~ twenty (20) feet in the R-G zone and R-S zone. Lots utilizing a Joint Use driveway that meets the standards in TMC 16.04.050(B)(3) are exempt from this standard;
2. Lots and parcels with double frontage shall not be permitted, ~~unless, in the opinion findings of the~~ ~~As an alternative, the planning commission applicant has demonstrated that because,~~ an odd-shaped tract, existing street layout, or existing topography makes such a lot or parcel unavoidable;
3. Lot Side Lines. Each side line shall be as close to perpendicular ~~as practicable~~ to the adjacent ~~street line~~ ~~public street, private street, or private access easement upon which the lot or parcel faces.~~ ~~or radial to a curved street line as possible.~~ As an alternative, the applicant has demonstrated that other lot configurations that are not perpendicular because of an odd-shaped tract, existing street layout, or existing topography makes such a lot unavoidable;
4. Flag Lots. Flag lots shall be subject to the following Development Standards:

A. The access strip shall be a minimum of 20 feet in width for residential lots and 25 feet for non-residential lots. The improved surface shall be a minimum of 16 feet in width.

B. The access strip shall not be included in the lot area calculation.

C. If the length of the access strip exceeds 150 feet, the parcel or lot shall include a turn-around area per applicable fire department requirements.



~~Flag lots shall not have an interior flag portion measurement of more than one hundred (100) feet in length or a "pole" less than twenty (20) feet wide for residential and twenty five (25) feet for non-residential. See illustration.~~

- ~~5. The pole portion of a flag lot shall be a minimum of one hundred (100) feet long and a maximum of one hundred fifty (150) feet long. Existing circumstances that make this minimum and maximum impossible can be considered as a variance by the planning commission as set forth in the zoning ordinance;~~
6. Lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one. Lots or parcels created for commercial, industrial or public uses shall be exempt from width to depth ratio provisions;
7. ~~Flag lots may not be created such that more than two driveways for individual lots are in less than seventy five (75) foot of street frontage;~~
8. Existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development.

F. All parcels and lots in ~~a division of land partitions and subdivisions~~ shall be served by a public water system. No plat of a ~~partition or subdivision~~ division of land shall be approved unless the city has received and accepted:

1. A certification by the public works director that water will be available from the nearest point of supply; and
2. A performance agreement, bond, contract or other assurance that a water supply system will be installed by or on behalf of the partitioner to the boundary line of each and every lot or parcel depicted on the proposed partition or subdivision.

G. All parcels and lots in ~~partitions and subdivisions~~ a division of land shall be served by a public sewer system unless in possession of a sewer exception stipulated in writing by the public works director and city council (Public Improvement Requirements and Design Standards). No plat of a ~~partition or~~

~~subdivision~~division of land shall be approved unless the city has received and accepted:

1. A certification by the ~~director of~~public works director that sewage service will be available at the nearest point of collection;
2. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the partitioner to the boundary line of each and every lot or parcel depicted in the proposed partition.

#### 16.04.055 IMPROVEMENT PROCEDURES

In addition to Engineering Design Standards, improvements installed by a developer for any land division, either as a requirement of these regulations or the developer's option, shall conform to the requirements of this Development Code, the improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedures:

- A. City Approval Required. Improvement work shall not commence until plans are approved by the City. All plans shall be prepared in accordance with requirements of the City.
- B. Notification. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
- C. Inspections. Improvements shall be constructed under the inspection and to the satisfaction of the Public Works Director or designee. The City may require changes in typical street sections and improvements if unusual conditions arise during construction to warrant such changes.
- D. Installation of Utilities. All underground utilities, sanitary sewers, and storm drains installed by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.
- E. As-Built Drawings. A map or plan showing all public improvements as built shall be filed with the Department of Public Works upon completion of the improvements.

#### **16.04.060 Approval of expedited land divisions, partitions, subdivisions and major replats.**

- A. No plat or replat of an expedited land division shall be recorded or have any validity unless and until it has the written approval of the city manager ~~or is appealed to and subsequently approved by the referee or by court action.~~
- B. No plat or replat of a partition or a subdivision shall be recorded or have any validity unless and until it has the approval of the ~~planning commission~~city manager ~~or is appealed to and subsequently approved by the city council or by court action.~~
- C. No person shall dispose of, transfer, sell, or agree to offer or negotiate to sell any lot in any partition which requires approval by any ordinance or regulation adopted under ORS 92.044 and 92.048 until such approval is obtained and the plat of that partition is recorded.
- D. No person shall dispose of, transfer, sell, or agree to offer or negotiate to sell, any lot in any ~~subdivision~~land division by reference to, exhibition of, or other use of a plat (or plan) of such ~~subdivision~~land division before the ~~plan~~plat for such ~~partition~~land division has been so recorded.
- E. A person may offer or negotiate to sell any parcel in a ~~partition~~land division prior to approval of the

preliminary plan for such ~~partition~~land division, but no person may dispose of, transfer, sell or agree to sell any parcel in a ~~major partition or in a minor partition~~land division prior to such approval.

#### **16.04.070 Notice for public hearings.**

The city manager shall give notice of any public hearing required by this title by publishing a notice consistent with Type II procedure for partitions and a Type III procedure for subdivision in compliance with Title 19. ~~requirements in a newspaper of general circulation in the city ten (10) days prior to the date of the hearing and by mailing written notice to owners of property within three hundred (300) feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. Notice shall also be provided to a neighborhood or community organization recognized by the city and whose boundaries include the site (see Section 16.04.080 also). The notice shall:~~

~~A. — The date, time and location of the hearing.~~

~~B. — State that issues which may provide the basis for an appeal to the council shall be raised in writing prior to the expiration of the comment period or in person at the hearing. Issues shall be raised with sufficient specificity to enable the decision makers to respond to the issue;~~

~~BC. — List, by commonly used citation, the applicable criteria for the decision;~~

~~CD. — Set forth the street address or other easily understood geographical references to the subject property;~~

~~DE. — State the place, date and time that comments are due;~~

~~EF. — State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;~~

~~FG. — Include the name and phone number of a local government contact person;~~

~~G. — Provide notice of the decision to the applicant and any person who submits comments under subsection A of this section. Notice of the decision must include an explanation of appeal rights;~~

~~H. — Briefly summarize the decision making process for the decision being made; and~~

~~I. — The city manager shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice. The failure of any adjacent property owner to receive notice shall not invalidate any proceeding or action taken at any meeting. For purposes of this notice, the requirement shall be met by the provision of an affidavit or other certification that such notice was given.~~

#### **16.04.080 Appeals.**

An appeal from an action by the city manager shall go to the planning commission and an appeal from an action by the planning commission, other than for an expedited land division, shall be made to the city council. Appeals shall be made by filing written notice with the city recorder. If no appeal is taken within fifteen (15) days of the effective date of the action, the action of the city manager or planning commission shall be final. If an appeal is filed, the council shall receive a report and recommendation from the appropriate city official and shall hold a public hearing and consider the appeal de novo.

In order to have standing for an appeal, a person must have participated in writing or in person during a staff level decision or at the planning commission public hearing ~~or~~and have been substantially affected by the action.

Content of Notice. Notice of an appeal of a Type II administrative decision or a Type III hearing to be mailed and published per Section 16.04.070 shall contain the following information:

- A. The nature of the application and the proposed land use or uses which could be authorized for the property;
- B. The applicable criteria and standards from the development code(s) that apply to the application;
- C. The street address or other easily understood geographical reference to the subject property;
- D. The date, time, and location of the public hearing;
- E. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
- F. The name of a city representative to contact and the telephone number where additional information on the application may be obtained;
- G. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at city hall at no cost and that copies shall be provided at a reasonable cost;
- H. A statement that a copy of the city's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- I. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings;
- J. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The Toledo Municipal Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

#### **16.04.090 Amendments.**

Amendments to this title shall be legislative amendments and are reviewed using the Type IV land use procedure as set forth by Ordinance 1287 and stipulated in Toledo City Charter.

### **Chapter 16.06 TRANSPORTATION FACILITY STANDARDS**

#### **Sections:**

16.06.010 Purpose.

16.06.020 Street and Multi-Use Path Design Standards.

16.06.030 Summary of Transportation Facility Standards.

16.06.040 Bikeway Standards

16.06.050 Street Cross Section Figures. The standards shown in Figures 16.06.050A through 16.06.050C include the cross sections for each of the roadway classifications

16.06.060 Street Intersection Spacing Standards

16.06.070 Grades and Curves.

### Section 16.06.010 Purpose.

The purpose of this section is to establish standards for city streets and pathways that minimize improvement width and total right-of-way consistent with the operational needs of the facility and provide safe and convenient pedestrian and bicycle access in compliance with Toledo Transportation System Plan and the Oregon Transportation Planning Rule (OAR 660-012).

### Section 16.06.020 Street and Multi-Use Path Design Standards.

For new streets and multi-use paths, the rights-of-way and improvements shall be the widths in Section 16.06.030. An adjustment or variance authorized under [Section-Chapter 16.30](#) is necessary to vary the standards for new street and multi-use paths. Existing streets and multi-use paths are exempt from these standards. Where an existing street or multi use path in a subdivision or ~~major~~ partition is substantially rebuilt<sup>1</sup> and cannot meet these standards, then they may be waived following the process in [Section-Chapter 16.30](#). Section 16.06.030 lists the standards for arterial, collector, commercial, and local roads, as well as the unique standards recommended for Main Street in downtown Toledo. The functional classification of existing streets is shown on the Toledo Transportation System Plan maps.

### Section 16.06.030 Summary of Transportation Facility Standards.

#### Street and Multi-Use Path Design Standards

Type of Street	Right-of-Way Width with Curbs <sup>1</sup>	Travel Lane	Center Median or Center Turn Lane	On-Street Parking	Bike Lane <sup>2</sup>	Sidewalk (ft)
<b>Arterial</b>						
3-Lane	63'	Two 12' travel lanes	14'	None	6' on both sides	6' on both sides
2-Lane	49'	Two 12' travel lanes	None	None	6' on both sides	6' on both sides
<b>Collector<sup>3</sup></b>	45'	Two 12' travel lanes	None	None	5' on both sides	5' on both sides
<b>Commercial</b>	77'	Two 12' travel lanes	14'	8' on both sides	5' on both sides	6' on both sides
<b>Local</b>						
Preferred	55'	Two 14' travel lanes	None	8' on both sides	Cyclists share the travel lane	5' on both sides
Minimum	39'	Two 14' travel lanes	None	None	Cyclists share the travel lane	5' on both sides
<b>Main Street</b>	61'	Two 12' travel lanes	None	8' on both sides	None	10' on both sides
<b>Multi-Use Path</b>	N/A	N/A	N/A	N/A	12' total width (10' paved trail with 1' gravel shoulders)	

<sup>1</sup> "Substantially rebuilt" refers to a construction project where the pavement or asphalt of the street is removed down to the base rock foundation and rebuilt.

## Street and Multi-Use Path Design Standards

Type of Street	Right-of-Way Width with Curbs <sup>1</sup>	Travel Lane	Center Median or Center Turn Lane	On-Street Parking	Bike Lane <sup>2</sup>	Sidewalk (ft)
Boardwalk Path	N/A	N/A	N/A	N/A	12' total width with side railings; 10' if no rails are used	

<sup>1</sup>Includes sidewalks and ~~six-inch~~six-inch curbs on either side

~~<sup>2</sup>Bike lanes could be substituted for a 4' shared use shoulder where topography or other right-of-way constraints exist, at the discretion of the Planning Commission. A 4-foot shared use shoulder may be substituted for bike-lanes when the Planning Commission finds that topography or other right-of-way constraints exist.~~

<sup>3</sup> Collector standards apply to the Special Downtown Business District on Business Loop 20 between A Street and NE 3<sup>rd</sup> Street

### Section 16.06.040 Bikeway Standards.

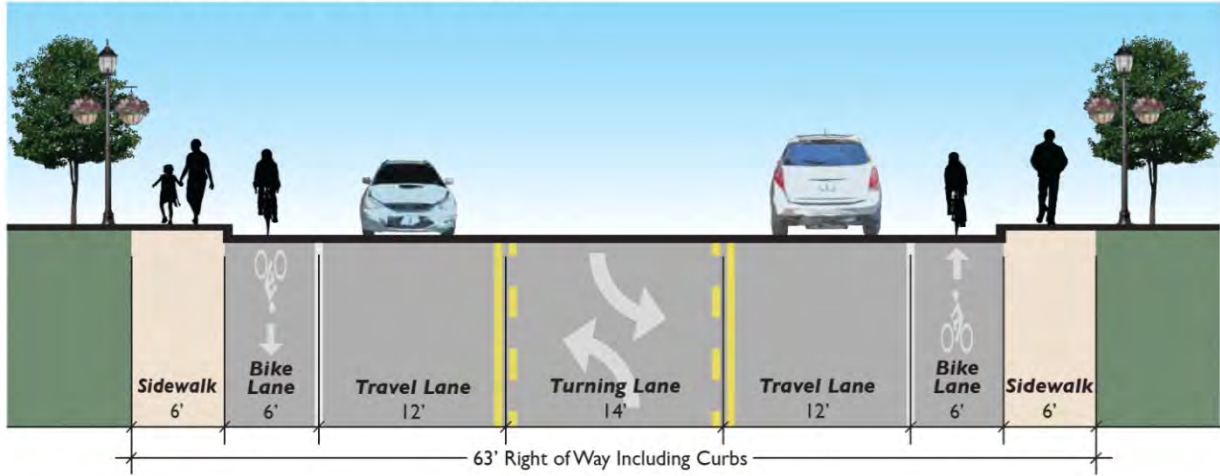
Pursuant to the Statewide Transportation Planning Rule (OAR 660-012), arterial and collector street widths must include width requirements for bikeways in addition to travel lanes. These bikeways must be no less than five (5) feet wide, in each direction of travel. ~~The Planning Commission will decide whether bikeways are to be bicycle lanes, shared use shoulders, or multi-use paths based on the City's evaluation of bicycle use, right-of-way constraints, and topography. In accordance with footnote 2 in the table of Section 16.06.030 the Planning Commission may allow shared use shoulders or a multi-use path in lieu of bicycle lanes when they make finding that the topographic grades do not allow full-width street rights of way.~~ Paved and boardwalk or multi-use path facility standard widths are also included in Section 16.06.030. The proposed city-wide bicycle and pedestrian network is shown on the Toledo Transportation System Plan maps.

### Section 16.06.050 Street Cross Section Figures.

The standards shown in Figures 16.06.050A through 16.06.050C include the cross sections for each of the roadway classifications.

Figure 16.06.050A.  
Arterial Road Standards

### 3-LANE ARTERIAL ROAD



### 2-LANE ARTERIAL ROAD

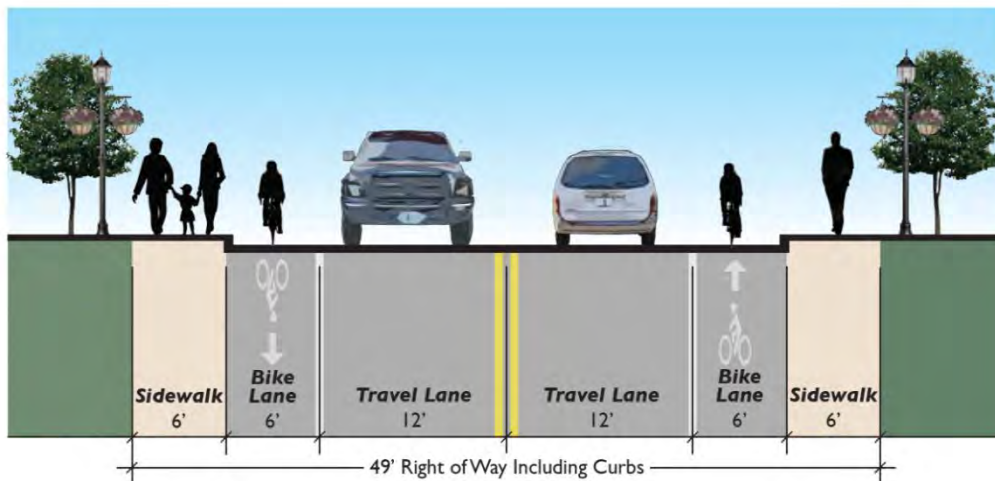
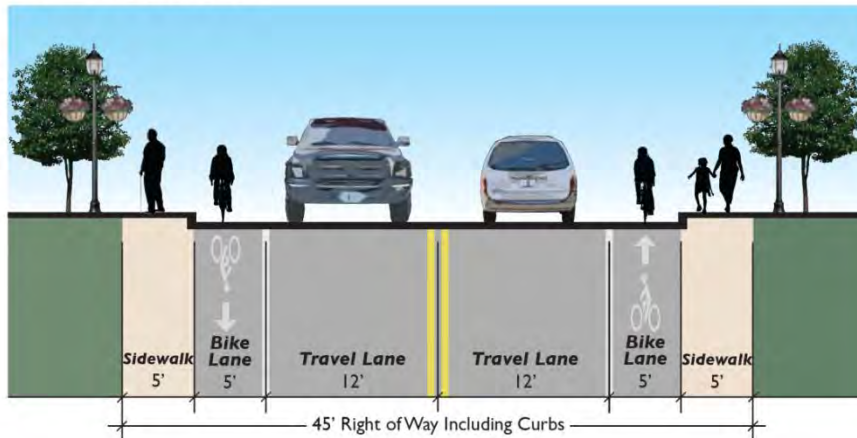


Figure 16.06.050B

Collector and Commercial Road Standards

### COLLECTOR ROAD



### COMMERCIAL ROAD

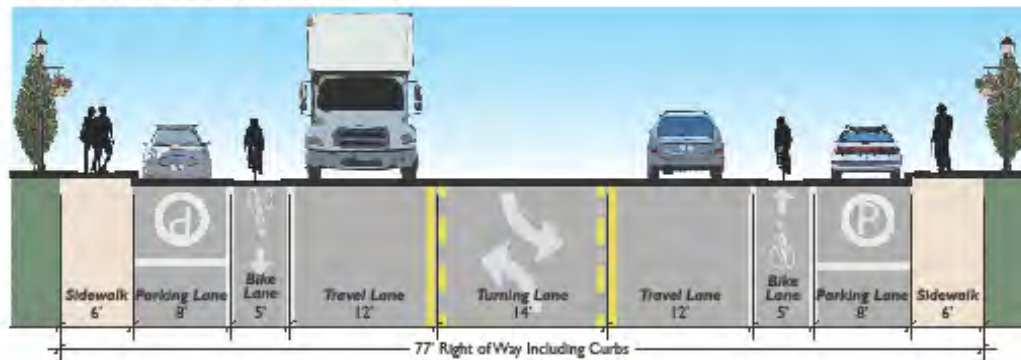
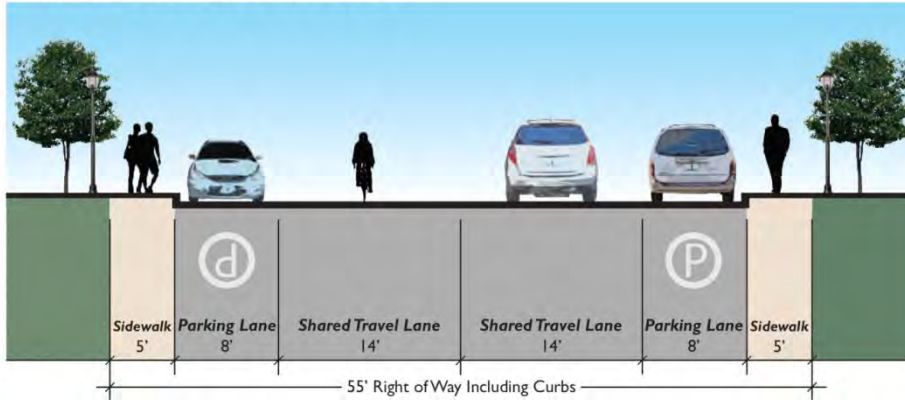
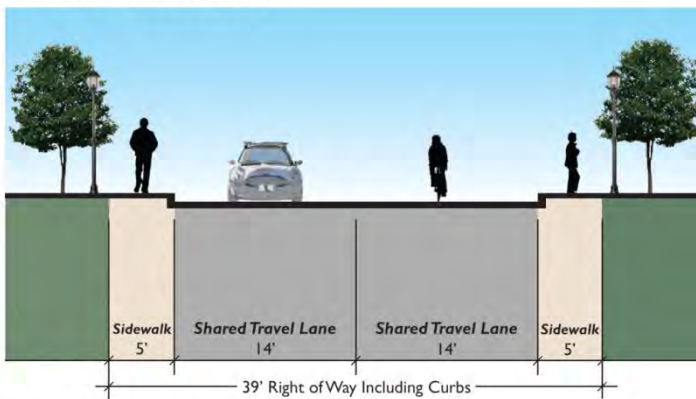


Figure 16.06.050C  
 Local Road and Main Street Standards

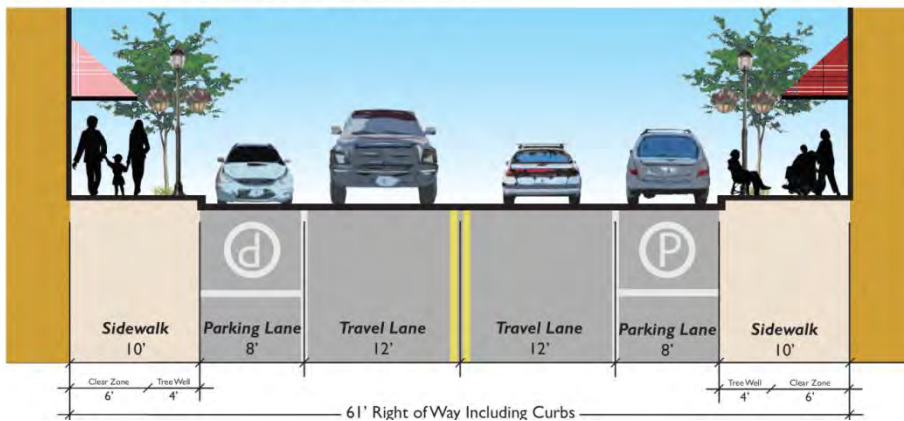
**PREFERRED LOCAL ROAD**



**MINIMUM LOCAL ROAD**



**DOWNTOWN MAIN STREET**



### 16.06.060 Street Intersection Spacing Standards

Functional Classification	Public Intersection Spacing (measured between centerlines)
Arterial	100 feet
Collector	100 feet
Local Street (includes Main Street and streets designated as Commercial Streets)	50 feet

### Section 16.06.070 Grades and Curves.

Grades shall not exceed 6% on arterials, 10% on collector streets, or 12% on any other streets. Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on collectors, and continuing residential streets, and 100 feet on other streets and alleys and shall be rounded to an even 10 feet. Where existing conditions, particularly the topography, make it otherwise impracticable to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves.

## Chapter 16.08 ~~MINOR AND MAJOR~~ LAND PARTITIONS

### Sections:

- 16.08.010 Purpose.
- 16.08.020 Approval required.
- 16.08.030 Application process.
- 16.08.040 Improvements.
- 16.08.050 Performance bond.
- 16.08.060 Public hearing.
- 16.08.070 Criteria for evaluation.
- 16.08.080 Planning commission action.

### 16.08.010 Purpose.

The purpose of this chapter is to provide the ~~planning commission~~city manager with the authority and ~~guidelines standards~~ to review all ~~minor and major~~applications for a land partitions in order to insure compliance with the comprehensive ~~land use~~plan and all other city ordinances.

### 16.08.020 Approval required.

No person shall divide land within the city by means of a ~~minor or major~~partition without first obtaining the approval of the ~~planning commission~~city manager.

### 16.08.030 Application process.

- A. An applicant, requesting a ~~minor or major~~ partition of land, shall first submit to the city manager an application on forms provided by the city. The application shall be complete and all information shall be accurate to the best of the applicant's knowledge.
- B. The applicant shall submit a ~~plan preliminary plat~~ with the application form. The ~~plan preliminary plat~~ shall include or be accompanied by the following information:
1. Northpoint, scale and date of the completed drawing, approximate acreage and boundary lines;
  2. Location of property(ies) by section, township, range, tax lot(s), and donation land claim, ~~are~~ sufficient to define the location and boundaries of the partition;
  3. Two-foot or five-foot contour lines or spot elevations at two-foot intervals ~~are necessary, but will be as~~ specifically stipulated by staff at the preapplication conference;
  4. Names, addresses, ~~zip codes~~ email addresses, and telephone numbers of ~~all the property owners, the applicant, and the engineers or surveyors, or other consultants~~ responsible for laying out the partition;
  5. Location, square footage, and dimensions of all ~~lots parcels~~ and the proposed ~~lots/parcel~~ numbers;
  6. Location, square footage, and dimensions of any sites allocated for a purpose other than residential;
  7. Existing uses on the property, including locations of all existing structures;
  8. Existing locations, widths, and names of opened and unopened roads within or adjacent to the partition, together with easements or rights-of-way and other important features, such as section lines, corners, city boundary lines, and monuments;
  9. Location, width, name, approximate grade, and radii of curves of all proposed roads and the relationship of such roads to any projected or existing roads adjoining the ~~partition~~ partition;
  10. Notations indicating any limitations on rights-of-access to or from roads and ~~lots or other parcels of land~~ proposed by the applicant;
  11. Location of significant natural features such as rock outcroppings, marshes, wetlands, wooded areas, preservable trees, and scenic views;
  12. Location and direction of all water courses and bodies of water and the location of all areas subject to flooding or other natural hazards;
  13. Additional information as city manager ~~or the planning commission~~ deems appropriate.
- C. Future Development Plan. Submission of a future development plan is required when it is evident that the property to be divided can be further divided or provides street or utility connections to adjacent property. The future development plan shall be submitted with the preliminary plat and shall contain the following information:
1. Any potential future lots (lot size shall be depicted).
  2. Existing and proposed utilities including water, sewer and storm drains.
  3. Streets and access points for potential future lots.
- D. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing.

#### 16.08.040 Improvements.

- A. The applicant shall improve or agree to improve lands dedicated for ~~roads, alleys, pedestrian or bicycle way~~ transportation facilities, drainage channels, private easements for access, and other rights-of-way or

public open space as condition preceding the acceptance and approval of the partition.

- B. Prior to ~~final~~ approval of the final partition plat, the applicant shall either install all required improvements to city standards and repair existing roads and other public facilities damaged in the development of the partition or shall execute and file with the city manager an agreement between the applicant and the city specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time specified, the city may complete the work and recover the full cost and expense from the applicant. If the applicant so requests, the ~~planning commission~~ city manager may grant not more than one extension of time for a period not to exceed one year to complete the required improvements.

#### **16.08.050 Performance bond.**

- A. A performance bond, pursuant to this chapter, is required with the executed agreement to complete the improvements and repairs. The applicant shall file with the agreement one of the following to assure full and faithful performance:
1. A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the city manager;
  2. Cash or a certified check in an amount fixed by the city manager; or
  3. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that the money will only be released upon authorization of the city manager.
- B. Such assurance of full and faithful performance shall be for a sum determined by the city manager as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance, including related engineering and inspection costs and may include an additional percentage as determined by the city manager to cover any inflationary costs which may be incurred during the construction period.

#### **16.08.060 ~~Public hearing~~ City Manager.**

~~The planning commission shall hold at least one public hearing to review the application for a partition. Partitions shall be reviewed as a Type II procedure by the city manager.~~ Notice to the public of the ~~hearing decision item~~ shall be in accordance with ~~the terms of the ordinance codified in this~~ chapter 19.12. The ~~planning commission shall schedule the hearing~~ city manager shall review the partition as soon as practicable but only after the completed application and plan have been filed.

#### **16.08.070 Criteria for ~~evaluation~~ approval.**

In reviewing an applications for ~~minor and major~~ land partitions, the city manager shall make findings that all of the following criteria shall have been or will be met before ~~the planning commission may granting approval to approve~~ the proposed partition:

- A. The division of land complies with applicable ordinances and public improvement design standards adopted by the city;
- B. The applicant has filed all the necessary information required by ~~the land division~~ this Title 16 Title;
- C. ~~If the application is for a minor partition, the division of land will not constitute a major partition or a subdivision pursuant to the definitions in this title;~~

- ~~D. If the application is for a major partition, the~~The division of land will not constitute a subdivision;
- ~~D. The~~and the street design has received approval from the director of public works;
- E. The applicant has demonstrated that each ~~lot parcel~~ will be served with city sewer and water and that the city has the capacity to provide those services;
- F. The infrastructure designs have received approval from the director of public works department and if a bond is required to be posted for any infrastructure improvements, the applicant has agreed in writing to do so;
- G. ~~The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from partition does not involve property identified in the comprehensive plan as being subject to natural hazards.~~ As an alternative, the applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards;
- H. The ~~division of land partition~~ will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County estuary management plan.
- I. The ~~division of land partition~~ will not result in any newly created parcels ~~or lots~~ which are entirely zoned for natural resources or which become one hundred (100) percent undevelopable due to splitting off the buildable land unless owned, created, or proposed to be used by a public ~~utility entity~~.

#### **16.08.080 ~~Planning commission~~City Manager action.**

- A. The ~~planning commission~~city manager is authorized to approve, conditionally approve, or deny the application ~~and shall take action within forty five (45) days of the first public hearing on the application.~~ Approval of an application shall be valid for ~~twelve (12)~~eighteen (18) months after the effective date of the approval. If the improvements are not completed and the ~~real property partitioned~~final partition plat submitted to the city manager for approval within that time, the approval is void.
- B. If the applicant requests an extension in writing before the required time elapses, the ~~planning commission~~city manager may grant not more than one extension of time for a period not to exceed one year to complete the required improvements.

#### **16.12.100 Submission of final plat.**

- A. The partitioner shall have the partition surveyed and a plat drawn in accordance with the preliminary plat and the changes required by the city manager. All owners and mortgagees of the partition and the engineer and surveyor responsible for laying out the partition shall approve and sign the final plat.
- B. The partitioner shall then file the final plat with the city manager within eighteen (18) months of the approval of the preliminary plat, who shall review it according to the criteria of this title. Failure to submit a final plat within 18 months from the date of approval of the preliminary plat shall result in expiration of the approval of the partition. The manager may consult with the partitioner and any other person during the review and may require revisions to the final plat.
- C. The final partition plat shall include the information required in Section 16.12.130.
- D. Approval of a final partition plat shall be a routine administrative action. The city manager shall approve the final plat upon finding that the following criteria are satisfied.
1. The Public Works Director has determined the construction of any public improvements is substantially complete.
  2. The final plat and any supporting documents are in substantial conformity with the approved preliminary

plan. Changes from the approved preliminary plan may be approved when the city manager finds that they are minor modifications.

3. Any conditions imposed by the city manager have been satisfied and/or assured through bonding agreement(s) or other performance guarantees.

E. The partitioner shall record the final plat with the clerk of Lincoln County within thirty (30) days of the date that the city manager signs the final plat. If not, the subdivider shall resubmit the final plat to the city manager who may require alterations in the final plat because of changes in the area of the partition.

## **Chapter 16.12 SUBDIVISIONS**

### **Sections:**

16.12.010 Purpose.

16.12.020 Approval required.

16.12.030 Preapplication conference.

16.12.040 Filing preliminary plat.

16.12.050 Preliminary plat information.

16.12.060 Supplementary information.

16.12.070 Subdivision phasing.

16.12.080 Public hearing.

16.12.090 Criteria for evaluation.

16.12.100 Planning commission action.

16.12.110 Extensions of time.

16.12.120 Submission of final plat.

16.12.130 Final plat information.

16.12.140 Supplementary information.

16.12.150 Agreement for improvements.

16.12.160 Performance bond.

16.12.170 Final plat approval and recording.

### **16.12.010 Purpose.**

The purpose of this chapter is to set forth the requirements and standards to be followed by the planning commission in reviewing preliminary and final plats of proposed subdivisions in order to ~~insure~~ensure compliance with the comprehensive land use plan and all other city ordinances.

### **16.12.020 Approval required.**

No person shall subdivide land within the city without first obtaining approval of the planning commission in accordance with this title.

### 16.12.030 Preapplication conference.

- A. Any person proposing to divide land within the city shall file a letter of intent and a preliminary sketch of the proposal with the city manager. The letter of intent shall include:
  - 1. The location of the proposed subdivision by township, range, section number(s) and tax lot number(s);
  - 2. The proposed usage in the subdivision and the proposed lot sizes; and
  - 3. Any other information relevant to the proposal.
- B. The preliminary sketch shall be of sufficient detail to illustrate the proposed development and shall include the following:
  - 1. The boundaries of the proposed subdivision and a general layout of the size and number of lots;
  - 2. North arrow and scale of the drawing;
  - 3. The proposed name of the subdivision and the total acreage involved in the request; and
  - 4. The tentative layout of the proposed street system and the location of existing and proposed easements for access.
- C. Within one week of the receipt of the information submitted by the applicant, the city manager shall call a conference at which the manager or any other city official requested by the manager shall be present to review and discuss the proposal with the applicant. The purpose of this conference is to inform all parties of the proposal, discuss existing and potential problems, coordinate actions and evaluation, and in general to determine whether the proposal conforms to the city's comprehensive land use plan, applicable zoning ordinance standards, and any other applicable city ordinances. The parties shall discuss the following, if applicable: potential natural hazards, the presence of a dredged material disposal site, the presence of a restoration site, relevant engineering requirements and specifications, building code requirements, permits and fees.
- D. If the applicant fails to file a preliminary plat with the city manager within one year of the date of the conference, an additional conference to review the proposed subdivision will be required prior to the filing of the preliminary plat.

### 16.12.040 Filing preliminary plat.

- A. After the preapplication conference, an applicant shall then complete and file with the city manager an application on forms provided by the city and ~~ten-three~~ (103) copies of the preliminary plat, together with the improvement plans and other supplementary information required by this title. In addition, electronic versions of all submissions shall be provided in a portable document format.
- B. The preliminary plat and plans and information shall be filed no less than ~~ten-thirty~~ (1030) days before the public hearing before the planning commission. The filing fee as set by the city council by resolution shall be paid in full at the time of filing.

### 16.12.050 Preliminary plat information.

The preliminary plat shall include or be accompanied by the following information:

- A. Proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the city;

- B. North point, scale (either one inch equals one hundred (100) feet or one inch equals fifty (50) feet) and date of completed drawing, approximate acreage and boundary lines;
- C. Appropriate identification clearly stating the map is a preliminary plat;
- D. Location of the subdivision by section, township, range, tax lot or lots and donation land claim;
- E. Location of at least one temporary ~~bench mark~~benchmark within the plat boundaries;
- F. Contour lines related to the temporary ~~bench mark~~benchmark and having ~~two-foot or five-foot~~ contour intervals specified at the preapplication conference;
- G. Names, addresses, ~~zip codes~~email addresses, and phone numbers of ~~all the~~ owners, ~~subdividers~~applicant, and engineers, ~~or~~surveyors, and other consultants responsible for laying out the subdivision;
- H. A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets, and sewer and water services;
- I. Location, square footage and dimensions of all lots and the proposed lot numbers;
- J. Location, square footage and dimensions of areas proposed for public use;
- K. Sites, if any, allocated for a purpose other than single-family dwellings;
- L. Existing uses on the property, including location of all existing structures;
- M. Lots not intended for sale shall be designated and the intended usage and legal status of the lot shall be noted;
- N. Existing locations, widths and names of both opened and unopened streets within or adjacent to the subdivision, together with easements or rights-of-way and other important features, such as section lines, corners, city boundary lines and monuments;
- O. Location, width, name, approximate grade, and radii of curves of all proposed streets and the relationship of such streets to any projected or existing streets adjoining the proposed subdivision;
- P. Location, width and purpose of proposed easements of street access and private streets for private use and all reservations or restrictions relating to those easements and private streets;
- Q. Location of significant natural features such as rock outcroppings, marshes, wooded areas, isolated preservable trees and scenic views;
- R. Location and direction of all watercourses and bodies of water and the location of all areas subject to flooding;
- S. Location of all underground utility lines;
- T. A Transportation Impact Analysis, if required by the Public Works Department;and
- U. Additional information as the city manager deems appropriate.

**16.12.060 Supplementary information.**

The applicant shall file the following information, if applicable, with the preliminary plat:

- A. A statement of the projected water and sewer needs of the subdivision and the proposed method of providing those services;
- B. The nature and type of improvements proposed for the subdivision, and a timetable for their installation;
- C. A description of community facilities which would serve the subdivision, and a timetable for the completion or installation of the facilities;

- D. Where it has been determined at the preapplication conference that all or a portion of a proposed subdivision may be subject to unstable subsurface conditions, faults or other problems related to local geologic formation, a complete geologic study of the area shall be done by an independent geologist. The independent geologist's report shall be required before any review of the preliminary plat by the planning commission. The fee for such study shall be paid by the subdivider;
- E. Where it has been determined that flooding problems exist on the land, a showing that the subdivider can and will comply with all of the applicable provisions of the city ordinances on flood control and prevention;
- F. A list of any restrictive covenants which are to be recorded;
- G. A proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling is proposed, the drainage plan must comply with all city ordinances and must demonstrate that adequate provisions have been made for the prevention of backup or ponding of surface water on adjacent properties as well as within the proposed development;
- H. A statement that the proposed subdivision is not located in a designated dredged material disposal site or a mitigation site;
- I. If the financing of the subdivision is to be through the sale of bonds under the Bancroft Bonding Act in Oregon Revised Statutes Chapter 223, a statement setting forth the benefit to the city as a result of the proposed subdivision;
- J. A preliminary title report for the real property to be subdivided. If the applicant is not the owner of the property, evidence of the applicant's rights to the property that provide authority to submit the application.
- K. Future Development Plan. Submission of a future development plan is required when it is evident that the property to be divided can be further divided or provides street or utility connections to adjacent property. The future development plan shall be submitted with the preliminary plat and shall contain the following information:
  1. Any potential future lots (lot size shall be depicted).
  2. Existing and proposed utilities including water, sewer and storm drains.
  3. Streets and access points for potential future lots.

#### **16.12.070 Subdivision phasing.**

- A. A subdivision may be platted in as many as three phases. All phases shall be designated on the preliminary ~~plan~~ plat with time limitations not to exceed the following:
  1. Phase 1 shall be recorded not later than ~~one-two~~ years after preliminary plat approval;
  2. Phase 2 shall be recorded not later than ~~three-four~~ years after preliminary plat approval;
  3. Phase 3 shall be recorded not later than ~~five-six~~ years after preliminary plat approval.
- B. The planning commission shall review each phase before recording, and no phase shall be recorded before the commission grants its final approval. If any of the above time limitations are exceeded, the applicant shall reapply for preliminary plat approval and comply with the requirements of this title.
- C. Prior to approval of the final plat of any phase, the applicant shall demonstrate that each phase of the subdivision would be substantially and functionally self-contained and self-sustaining with regard to access, utilities, open spaces, and similar physical features; and be capable of substantial occupancy, operation, and

maintenance should the subsequent phases of the subdivision not be developed.

#### **16.12.080 Public hearing.**

The planning commission shall hold at least one public hearing to review the application for a subdivision and all the accompanying documents. Notice to the public of the hearing shall be in accordance with the terms of ~~this~~ title 19. The commission shall schedule the hearing as soon as practicable but only after the completed application, preliminary plat, and all supplementary information have been filed.

#### **16.12.090 Criteria for evaluation approval.**

In reviewing preliminary plats, all of the following criteria shall be met before the planning commission may approve the proposed subdivision.

- A. The application is complete in accordance with this title;
- B. ~~All of the proposed lots conform to the minimum standards for lot designs as required by the city zoning ordinance~~The density standards of Section 16.04.050 have been met;
- C. The preliminary plat conforms with the city of Toledo comprehensive ~~land use~~ plan;
- D. The preliminary plat complies with the zoning ordinance and all other applicable city ordinances;
- E. The street design has received approval from the director of public works ~~department~~, and if a bond is required to be posted, the subdivider has agreed in writing to do so; ~~and~~
- F. Each lot can be served with city sewer and water service and must be at the time of construction;
- G. The Transportation Impact Analysis, if required by the Public Works Department, has shown that traffic projected to be generated by the proposed subdivision will not result in the volume to capacity ratio of any intersection to exceed 0.95 or the Level of Service of any intersection or street segment to decrease to less than LOS D; and
- H. Where adjacent property is large enough to be divided as a subdivision, street rights of way shall be extended to the subdivision boundary.

#### **16.12.100 Planning commission action.**

- A. The planning commission is authorized to approve, conditionally approve, or deny the application and shall take action within forty-five (45) days of the first public hearing on the application. The approval of the planning commission shall be binding upon the city and the subdivider for the purpose of preparing the final plat.
- B. Approval by the commission of the preliminary plat shall be valid for ~~twelve-eighteen (18-12)~~ months from the effective date of the approval. Unless an extension is granted under the terms of this title, that approval of the preliminary plat shall be void after the expiration of the ~~twelve-eighteen (18)~~ month period and the proposal for subdivision shall be resubmitted to the planning commission for consideration of the preliminary plat before the filing of a final plat.

#### **16.12.110 Extensions of time.**

The planning commission may grant one extension of time of up to twelve (12) months to the approval of the preliminary plat of a subdivision or to the time required to complete any phase of a subdivision. Upon the receipt

of a written request for such an extension, the commission may grant the extension and may attach any conditions necessary for compliance with this title. The written request shall be filed with the city manager prior to the termination of the original approval; otherwise, the commission's approval will be considered expired and the subdivider must reapply with the commission.

### **16.12.112 Submission and Approval Procedures for Construction Plans.**

#### **A. Construction Plans Submittal Requirements.**

1. Submittal Deadline. No later than eighteen (18) months from the effective date of approval of the preliminary plat for a major partition or subdivision the applicant shall submit three (3) sets of construction plans to the Public Works Department. The applicant shall also submit all construction plans and other required documents to the City in electronic form. Failure to submit construction plans within eighteen (18) months of the effective date of approval shall result in expiration of the approval.
2. Conformance to Preliminary Plat. The construction plans shall substantially conform to the preliminary plat as approved.
3. Preparation. All construction plans shall be prepared by a professional engineer registered with the State of Oregon.
4. Format. Construction plans shall be clearly and legibly drawn to a standard engineer's scale in a manner which allows all detail to be easily read. The overall size of construction plans shall be 22 inches by 34 inches. Construction plans consisting of more than one sheet shall be bound or stapled on the left side. The format shall meet requirements set forth in the Public Infrastructure Design Standards Manual.
5. Construction Plans Information. The construction plans shall be drawn in accordance with and contain the information specified in the Public Infrastructure Design Standards Manual.

#### **B. Review and Approval of Construction Plans.**

1. Approval of construction plans shall be a routine administrative action.
2. The Public Works Department shall issue a written acknowledgement indicating the date the construction plans and other required documents were received by the City.
3. The Public Works Director shall forward the construction plans and other required documents to the City Engineer for review and approval.
4. Within 14 days of submittal of the construction plans and other required documents, the City Engineer shall determine if the submittal is complete. If the City Engineer determines the submittal is incomplete, the applicant shall be notified in writing of the additional information that must be submitted in order for the Public Works Director to initiate City review of the submittal. Failure of the applicant to provide a complete application within 181 days of the original submission shall result in the construction plans and other required documents being considered withdrawn. City staff shall notify the applicant that the application is considered withdrawn.
5. Within 21 days of determining the submittal is complete, the City Engineer shall determine whether the construction plans and other required documents are in general conformance with the requirements of this Title, the Public Infrastructure Design Standards Manual, and any conditions of approval.
6. If any portion of the construction plans and other required documents are not in conformance with the required Public Infrastructure Design Standards Manual, the applicant shall be informed in writing of the necessary changes to bring them into conformity.
7. Once the City Engineer has determined that the construction plans and other required documents

generally conform to the Public Infrastructure Design Standards Manual, the City Engineer shall notify the engineer of record who prepared the plans in writing that a specified number of copies of the approved plans to be provided for City Engineer approval.

8. Upon City Engineer approval of the construction plans, the applicant shall obtain all necessary agency approvals and shall obtain all necessary permits prior to commencement of construction. Design and construction activities shall be in accordance with the requirements set forth in the Public Infrastructure Design Standards Manual.

#### **16.12.120 Submission of final plat.**

- A. ~~Within twelve (12) months after the effective date or a valid extension of approval of the preliminary plat, the~~ The subdivider shall have the subdivision surveyed and a plat drawn in accordance with the preliminary plat and the changes required by the planning commission. All owners and mortgagees of the subdivision and the engineer and surveyor responsible for laying out the subdivision shall approve and sign the final plat.
- B. The subdivider shall then file the final plat with the city manager within 24 months of the approval of the construction plans, who shall review it in light of the criteria of this title. Failure to submit a final plat within 24 months from the date of approval of the construction plans shall result in expiration of the approval of the subdivision. The city manager may consult with the subdivider and any other person during the review and may suggest to the subdivider revisions to the final plat. ~~The manager shall submit the final plat, together with recommendations, to the planning commission at the next regularly scheduled meeting.~~

#### **16.12.130 Final plat information.**

The final plat shall meet the Lincoln County Surveyor's Map Standards. The following information shall be shown on the final plat:

- A. The name of the subdivision, the date the plat was prepared, the scale, north point and legend;
- B. Legal description of the subdivision boundaries;
- C. Reference, by distance and bearings, to adjoining recorded surveys, if any and referenced to a field book or map as follows:
  1. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision,
  2. Adjoining corners of adjoining subdivisions,
  3. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this title;
- D. Numbering of lots and blocks as follows:
  1. Lot numbers beginning with the number "1" numbered consecutively in each block,
  2. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision;
- E. All dimensions shall be in feet and decimals of a foot, to the nearest one one-hundredth of a foot;
- F. Ties to any city, county or adjacent subdivisions' boundary lines;
- G. Square footage of each parcel and total acreage of the subdivision;
- H. All sites to be utilized for public purposes shall be clearly noted on the plat;

- I. Exact location and width of streets and easements of access intersecting the boundary of the subdivision;
- J. Subdivision block and lot boundary lines and street rights-of-way and centerlines with dimensions to the nearest one one-hundredth of a foot, bearings or deflection angles, radii, arch, points of curvature, chord bearings and distances and tangent bearings. Subdivision boundaries, lot boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings;
- K. Names and width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated;
- L. Utility and private easements of access to public streets or roads denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;
- M. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed roads or along the edge of partial width roads on the boundary of the subdivision;
- N. Any conditions specified by the planning commission upon granting preliminary approval.

**16.12.140 Supplementary information.**

The subdivider shall supply to the city manager the following information with the final plat:

- A. A preliminary or supplementary title report for the property being subdivided, including the exceptions, if any, that will be imposed when the final plat is recorded;
- B. A copy of the restrictive covenants to be filed with the final plat;
- C. Improvement plans for the facilities to be constructed by the subdivider, including plans for drainage, sewer, water, curbs and gutters, sidewalks and streets, and any other construction plan that may be required. All such plans shall meet or exceed the specifications for construction adopted by the city;
- D. A deed or deeds, satisfactory to the commission, conveying all land to be dedicated for public use other than streets;
- E. A statement to be fixed to the final plat which offers for public dedication all streets, pedestrian and bicycle ways, private easements of access, other rights-of-way, drainage channels, watercourses and any other property intended for public use;
- F. A statement from the Lincoln County assessor concerning unpaid taxes on the property to be subdivided.

**16.12.150 Agreement for improvements.**

The subdivider shall improve or agree to improve lands dedicated for transportation facilities, drainage channels, private easements of access and other rights-of-way as a condition preceding the acceptance and approval of the final plat. Prior to the commission's certifying approval on the final plat, the subdivider shall either install all required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or shall execute and file with the commission an agreement between the subdivider and the city specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time specified, the city may complete the work and recover the full cost and expense from the subdivider. The subdivider shall also post a performance bond as required by this title.

### 16.12.160 Performance bond.

- A. A performance bond, pursuant to this section, is required with the executed agreement to complete the improvements and repairs within the subdivision. The subdivider shall file with the agreement one of the following to assure full and faithful performance:
1. A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the city manager;
  2. Cash or a certified check in an amount fixed by the city manager; or
  3. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that the money will only be released upon authorization of the city manager.
- B. Such assurance of full and faithful performance shall be for a sum determined by the city manager as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance, including related engineering and inspection costs and may include an additional percentage as determined by the manager to cover any inflationary costs which may be incurred during the construction period.

### 16.12.170 Final plat approval and recording.

- A. Upon receipt of the final plat and all supplementary information and documents, the ~~planning commission~~city manager shall determine whether the final plat conforms to the preliminary plat, the conditions of approval, and the ordinances of the city. ~~If any changes are to be considered by the planning commission in the approved preliminary plat, the planning commission shall first hold a public hearing in accordance with this title.~~
- B. Approval of a final partition plat shall be a routine administrative action. The city manager shall approve the final plat upon finding that the following criteria are satisfied.
1. The Public Works Director has determined the construction of the public improvements is substantially complete.
  2. The final plat and any supporting documents are in substantial conformity with the approved preliminary plan. Changes from the approved preliminary plan may be approved when the city manager finds that they are minor modifications.
  3. Any conditions imposed by the planning commission have been satisfied and/or assured through bonding agreement(s) or other performance guarantees.
- ~~If the planning commission finds that the final plat conforms to the approved preliminary plat, the conditions of approval, and the requirements of all city ordinances, the final plat may be approved and submitted for the necessary signatures.~~
- C. Approval by the ~~planning commission~~city manager shall constitute acceptance by the ~~public~~City of the any dedication of ~~any street~~ on the plat and agreement by the city to maintain ~~that any dedicated right of way~~ street as a city street.
- C. The subdivider shall record the final plat with the clerk of Lincoln County within thirty (30) days of the date that the ~~last required signature to~~city manager signs the final plat ~~has been obtained~~. If not, the subdivider shall resubmit the final plat to the ~~planning commission~~city manager ~~which~~who may require alterations in the final plat because of changes in the area of the subdivision.

## Chapter 16.16 PLANNED DEVELOPMENT PROCEDURES

### Sections:

16.16.010 Purpose.

16.16.015 Objectives.

16.16.020 Preapplication conference.

16.16.030 Preliminary plat and plan filing.

16.16.040 Zoning.

16.16.050 Information in preliminary plat.

16.16.060 Information in the development plan.

16.16.070 Public hearing.

16.16.080 Allowable variations from title requirements.

16.16.090 Criteria for preliminary evaluation of a planned development.

16.16.100 Planning commission action.

16.16.110 Approval of the final plat.

### 16.16.010 Purpose.

The purpose of the planned development is to provide greater flexibility in the development of land than may otherwise be possible under strict application of this title and the zoning ordinance. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the comprehensive ~~land-use~~ plan and relevant ordinances are observed. It is intended to encourage variety and creativity in land development patterns throughout the city while giving special attention to potential natural hazards, scenic views, watercourses, trees and other features which help determine land use. The planned development should result in a development equal to or better than that resulting from strict application of city ordinance standards in which the design of the overall development permits increased freedom in the placement and uses of buildings, location and designation of open spaces, circulation of traffic and people and the inclusion of watercourses, wooded areas and other amenities in overall site planning.

### 16.16.015 Objectives

Through proper planning and design, each Planned Development should include features which further, and are in compliance with, the following objectives:

- A. To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural conditions
- B. To ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction.

#### **16.16.020 Preapplication conference.**

Any person proposing a planned development shall comply with the provisions of Section 16.12.030 [and Section 19.24.030](#), dealing with preapplication conferences. In addition, the exact procedure to be followed for approval shall be agreed upon by all parties. Any required variance or conditional uses shall also be identified.

#### **16.16.030 Preliminary plat and plan filing.**

The applicant shall file with the city manager at least thirty (30) days prior to the scheduled planning commission meeting at which applicant is requesting review, an application form, preliminary plat, development plan (narrative of proposal), any supplemental information determined to be necessary during the preapplication conference, and the appropriate fee as set by the city council by resolution. The city manager shall conduct a review of the information submitted to determine compliance with city standards.

#### **16.16.040 Zoning [and Phasing](#).**

Toledo does not have a planned development zone. Instead, the planned development requires an application, a preapplication conference, a preliminary plat, a hearing, and a final plat, all regulated by this Title 16. Planned developments are used most often in conjunction with residential developments but planned developments work for commercial and industrial developments too. [The applicant may provide for development in phases and shall comply with the provisions in Section 16.12.070.](#)

#### **16.16.050 Information in preliminary plat.**

The applicant shall submit a preliminary plat containing the following information:

- A. Information required to be filed under Chapter 16.12 of this title for the preliminary plat of a subdivision;
- B. Any additional information outlined by the city manager in the preapplication conference.

#### **16.16.060 Information in the development plan.**

The applicant shall submit a development plan which shall be a narrative of the proposal containing at least the following information:

- A. A description of the purpose and layout of the development emphasizing significant watercourses, geological and topographical features which serve to guide the development plans and building arrangement, open spaces, and proposed uses other than single-family residential;
- B. An analysis of projected sewer and water needs of the proposed development and applicant's proposal for serving those needs;
- C. Geologic or soils studies relevant to the proposal;
- D. When applicable, information regarding intentions and plans to comply with city ordinances concerning flood control and prevention;
- E. A statement that the proposal will not adversely affect a designated dredged material disposal site or mitigation site;
- F. Any additional information deemed appropriate by the applicant or the city manager.
- [G. A Transportation Impact Analysis, where required by the Public Works Department.](#)

### 16.16.070 Public hearing.

When the city manager has determined that all required information has been submitted, the manager shall schedule a public hearing for the next regular planning commission meeting and shall give notice to the public as required by this title and Section 19.16.030.

### 16.16.080 Allowable variations from title requirements.

The following variations to the requirements of the particular zone may be allowed in conjunction with a planned development in order to create developments that are superior to those that could be developed through conventional development and design standards:

- A. Density (~~number of units~~) shall be determined by calculating the gross available acreage, exclusive of area needed for streets, utilities and sidewalks, and applying the lot size standard of the zone. Density may be increased up to ~~ten-twenty (2+0)~~ percent if the planning commission finds that such an increase will not adversely affect ~~the development itself or the surrounding neighborhood~~ traffic or stormwater, that adequate sewer and water is available, ~~that open space for aesthetic appearance and light and air are not comprised,~~ and that the purpose of the zone is carried out.
- B. Building height may be increased up to ten (10) percent beyond the standard of the zone upon approval of the planning commission. ~~if open space within the development and building setbacks are increased to provide a pleasing aesthetic appearance and allow for circulation of light and air,~~ Ffire lanes, water pumps, additional hydrants and other applicable conditions may be required by the planning commission to insure adequate fire protection.
- C. Minimum lot size, street frontage, and setbacks required in the zone ~~may shall~~ not ~~necessarily~~ apply to a planned development although the planning commission may set conditions to carry out the purpose of such standards.
- D. The lot coverage standard of the zone shall not apply to specific lots as designated by the planning commission, but shall apply to the development as a whole.
- E. ~~Roadway and Street~~ right-of-way widths may be reduced if provisions are made for landscaping along the roadway and for routing bicycle and pedestrian traffic through and around the development. Any reduction in required roadway and right-of-way widths shall not hinder the safe and efficient circulation of traffic to and within the proposed development.

### 16.16.090 Criteria for preliminary evaluation of a planned development.

- A. The granting of preliminary approval is a statement to the applicant to proceed with the development under the conditions set forth by the planning commission. Therefore, the planning commission shall apply the following criteria to a proposal for a planned development:
  - 1. All required information has been submitted;
  - 2. Every aspect of the planned development conforms to all applicable ordinance standards except variations permitted by Section 16.16.080 above;
  - 3. The proposal complies with the city comprehensive land use plan;
  - 4. All streets, sidewalks and ways meet the standards and specifications pursuant to Chapter 16.06 of this

Code;

5. Each unit can be served by city sewer and water and the city has the capacity to provide those services;
  6. Identified natural hazards have been addressed and provisions made for insuring that the development will proceed without aggravating those hazards;
  7. Provisions of city ordinances concerning flood control and prevention have been and will be complied with;
  8. Provisions have been made for safe and efficient access to the development and safe and efficient circulation of motor vehicles, bicycles and pedestrian traffic;
  9. Adequate off-street parking has been provided.
  10. The Transportation Impact Analysis, where required by the Public Works Department, has shown that traffic projected to be generated by the proposed subdivision will not result in the volume to capacity ratio of any intersection to exceed 0.95 or the Level of Service of any intersection or street segment to decrease to less than LOS D.
  11. Where the potential exists for additional residential development on adjacent property street rights of way shall be extended to the subdivision boundary.
- B. In addition to the above criteria, the planning commission shall ~~prefer encourage~~ planned developments which correspond to topographical features, preserve natural, scenic or historic features (for example, stands of trees, watercourses, view property), address and incorporate, when feasible, alternative energy sources and methods of generation, provide attractively landscaped and meandering pedestrian and bicycle ways separate from streets.

#### **16.16.100 Planning commission action.**

In response to an application, the planning commission may approve, deny, or conditionally approve ~~or table any the application proposal~~. For approval or denial, the commission shall make findings which set forth compliance or noncompliance with the above criteria. A planned development may be approved only upon a finding that all criteria have been met. Any request for a zone change, variance or conditional use may also be acted upon as part of the overall action on the planned development.

#### **16.16.110 Approval of the final plat.**

The applicant shall follow the procedures set forth in Chapter 16.12 of this title, dealing with final plats and supplementary information, appropriately altering language to reflect the fact that it is a planned development. In addition, the applicant shall provide all appropriate documentation showing ownership of any common open spaces or other common property within the planned development.

### **Chapter 16.20 EXPEDITED LAND DIVISIONS**

#### **Sections:**

16.20.010 Purpose.

16.20.020 Approval required.

16.20.030 Application process.

16.20.040 Notice requirements and application procedures.

## 16.20.050 Appeals.

### 16.20.010 Purpose.

The purpose of this chapter is to provide the city manager with the authority and guidelines to review all expedited land divisions in order to assure compliance with Oregon Revised Statutes 197.360 to 197.380.

### 16.20.020 Approval required.

No person shall divide land within the city by means of an expedited land division without first obtaining the approval of the city manager.

### 16.20.030 Application process.

An application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions listed in this section. The application shall be submitted as per the application process requirements outlined in Section 16.08.030 for ~~minor and major~~ partitions. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing. To qualify for expedited approval in this chapter, the proposed land division must:

- A. Includes land that is zoned for residential uses and is within ~~an~~ Toledo's urban growth boundary;
- B. ~~Is~~ Be solely for the purposes of residential use, including recreational or open space uses accessory to residential use;
- C. ~~Does not~~ Not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
  - 1. Open spaces, scenic and historic areas and natural resources,
  - 2. Estuarine resources,
  - 3. Coastal shorelands, and
  - 4. Beaches and dunes.

Within Toledo these protected lands also include, but are not limited to, lands identified as wetlands, slide areas, or areas with slopes of twenty-five (25) percent or more;

- D. ~~Satisfies~~ Satisfy minimum street or other right-of-way standards established by ~~acknowledged land use regulations (including but not limited to~~ the Toledo zoning and land division ordinances, the Uniform Fire Code, the Uniform Building Code and the city of Toledo Public Improvements Requirements and Design Standards); ~~if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules. The property being divided and each parcel being created must have a minimum of frontage of fifteen (15) feet in an R-S zone and twenty (20) feet in an R-G zone and primary ingress and egress must be taken from a fully developed city street which meets all city of Toledo's standards; -and~~
- E. ~~Will~~ Result in development that either:

i. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

ii. Will be sold or rented to households with incomes below 120 percent of the median family income for the Lincoln County. If the land division will create four or more lots, it is a subdivision and it must create

~~enough lots or parcels to allow building residential units at eighty (80) percent or more of the maximum net density permitted by the zoning designation of the site (based upon the minimum lot size for a single family residence);~~

~~F. If the land division will create three or fewer parcels under ORS 92.010 it is a partition and must meet the standards in subsections (C)(1) through and including (C)(4) of this section.~~

**16.20.040 Missing Middle Division** - A middle housing land division, as defined by ORS 197.360(1), provides an alternative to the standards and procedures for a land division set forth in this Chapter. The expedited procedures must be used for any qualifying residential project per ORS 197.360 through 197.380 if requested by the applicant. When an applicant requests a middle housing land division, and an application meets the provisions in ORS 197.360, City Staff will review the application in accordance with ORS 197.360 through ORS 197.380. Alternatively, the applicant may request in writing to have City Staff review the application according to the Subdivision or Partition procedures contained in this Chapter.

A. Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:

1. The middle housing development complies with the Oregon residential specialty code and the applicable middle housing regulations, including but not limited to, the provisions in the base zone. To demonstrate compliance with this criterion, the applicant shall submit approved building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and middle housing regulations.
2. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
3. Easements will be provided as necessary for each dwelling unit on the site for:
  - i. Locating, accessing, replacing, and servicing all utilities;
  - ii. Pedestrian access from each dwelling unit to a private or public road;
  - iii. Any common use areas or shared building elements;
  - iv. Any dedicated driveways or parking; and
  - v. Any dedicated common area.
4. Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.
5. Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
6. Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
7. Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to the Public Works Infrastructure Manual.

#### **16.20.040 Notice requirements and application procedures.**

The city will follow the notice requirements and application procedures outlined in ORS 197.365 and ORS 197.370 to process expedited land division applications.

### **16.20.050 Appeals.**

An appeal of an action by the city manager on an expedited land division shall be applied for and processed as outlined in ORS 197.375.

## **Chapter 16.24 REPLATTING WITHIN SUBDIVISIONS AND PARTITIONS**

### **Sections:**

16.24.010 Purpose.

16.24.020 Approval required.

16.24.030 Major and minor replat application fees.

16.24.040 Major replats.

16.24.050 Minor replat application process.

16.24.060 Minor replat public hearing and notice.

16.24.070 Minor replat criteria for approval.

16.24.080 Planning commission action on a minor replat.

16.24.090 Recording approved minor replats.

### **16.24.010 Purpose.**

The purpose of this chapter is to provide the ~~planning commission~~city manager with the authority and guidelines to review all major and minor replats.

### **16.24.020 Approval required.**

No person shall replat land within the city by means of a replat without first obtaining the approval of ~~the planning commission~~the city manager.

### **16.24.030 Major and minor replat application fees.**

An application fee as set forth by resolution of the city council shall be paid in full at the time of filing of a replat request.

### **16.24.040 Major replats.**

For a major replat, the application shall be reviewed and processed in accordance with the procedures for a subdivision as set forth in ~~the Toledo Municipal Code Title 16.12, subdivisions~~ chapter 16.12.

### **16.24.050 Minor replat application process.**

A. Replatting. Any plat or portion thereof and any group of adjacent parcels may be replatted upon receiving an application signed by all of the owners as appearing on the deed(s) and an application on forms provided by

the city.

- B. Plan. For a minor replat, the applicant shall submit a plan with the application that includes the following information:
1. Northpoint, scale and date of the completed plan, approximate acreage and boundary lines;
  2. Location of propert(ies) by section, township, range, tax lot(s) sufficient to define the location and boundaries of the replat;
  3. Contour lines or spot elevations at five foot intervals;
  4. Location, square footage, and dimensions of all lots to be replatted;
  5. Location, square footage, and dimensions of any sites allocated for a purpose other than residential;
  6. Existing uses on the property including location of all existing structures;
  7. Existing locations, widths and names of opened and unopened roads with or adjacent to the replatted areas, together with any easements or rights-of-way and other important features such as section lines, corners, city boundary lines, and monuments;
  8. Any proposed changes to existing utility easements;
  9. Notations indicating any limitations on rights-of-access to or from roads and lots or other parcels of land proposed by the applicant;
  10. Locations of significant natural features such as rock outcroppings, marshes, waterways, and/or wetlands.

For a replat resulting in one lot, #3 and #5 may be omitted by the city manager.

#### **16.24.060 Minor replat public ~~hearing and~~ notice.**

Minor replats shall be reviewed as a Type II procedure by the city manager. Notice to the public of the decision item shall be in accordance with chapter 19.12. The city manager shall review the partition as soon as practicable but only after the completed application and plan have been filed.

~~The planning commission shall hold at least one public hearing to review the application for a minor replat. Notice shall be given pursuant to the notification requirements of a subdivision request and shall include notice to any utility company and public agency affected by a proposed change in a utility easement.~~

#### **16.24.070 Minor replat criteria for approval.**

The following criteria must be met before the ~~planning commission~~city manager may approve the proposed minor replat:

- A. The application has been deemed complete by the city manager;
- B. The replat of land complies with applicable ordinances and public improvement design standards adopted by the city or the applicant has applied for and received an exception/variance from the applicable ordinance or standard;
- C. The applicant has demonstrated or the public works director has verified that each lot can be served by city sewer and city water and the city has the capacity to provide those services;
- D. ~~The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from minor replat does not involve creating~~building sites on land identified in the comprehensive

plan as being subject to natural hazards. As an alternative, the applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards; ;

- E. The replat of land will not affect a dredged material disposal site or a mitigation site as designated by the Toledo Comprehensive Land Use Plan;
- F. The replat of land will not result in any newly created parcels or lots which are entirely zoned for natural resources or which become one hundred (100) percent undevelopable due to the splitting off the buildable land unless the property is owned by the city of Toledo or other government agency;
- G. No public streets or roads are vacated by the replat; and
- H. No existing utility easement is changed where an objection in writing is filed by a utility company that desires to maintain the easement as it exists.

#### **16.24.080 ~~Planning commission~~City manager action on a minor replat.**

- A. The ~~planning commission~~city manager is authorized to approve, conditionally approve, or deny the application and shall take action within forty-five (45) days of ~~the last~~providing public ~~hearing notice of on~~ the application. Approval of an application shall be valid for twelve (12) months after the effective date of the approval for the applicant to complete the requirements of the replat.
- B. If the applicant requests an extension in writing before the expiration of the approval of the replat, the ~~planning commission~~city manager shall grant one extension of time for a period not to exceed one year to complete the requirements of the replat.
- C. Any required improvements shall be subject to the "improvements" and "performance bond" sections of the subdivisions chapter of Title 16

#### **16.24.090 Recording approved minor replats.**

- A. The replat shall be prepared in accordance with ORS Chapters 92 (Comprehensive Land Use Planning Coordination) and 209 (County Surveyor) by an Oregon licensed surveyor and conform to the plat standards established by the county surveyor.
- B. A copy of the recorded replat shall be provided to the city no later than sixty (60) days after recording.

### **Chapter 16.28 LOT LINE ADJUSTMENTS**

#### **Sections:**

- 16.28.010 Purpose.
- 16.28.020 Submission requirements.
- 16.28.030 Approval process.
- 16.28.040 Approval criteria.
- 16.28.050 Minimum conditions.
- 16.28.060 Recording lot line adjustments.
- 16.28.070 Extension.

### **16.28.010 Purpose.**

The purpose of this chapter is to provide rules, regulations, and standards governing the approval of lot line adjustments which involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots and which may includes the consolidation of lots. This chapter is intended to encourage efficient use of land resources, full utilization of urban services, and transportation options.

### **16.28.020 Submission requirements.**

All applications for lot line adjustment shall be made on forms provided by the city. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of significant vegetation, existing fences and walls; and any other information deemed necessary by the city manager for ensuring compliance with city codes. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing.

### **16.28.030 Approval process.**

- A. Decision-Making Process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Ordinance 1287Chapter 19.08 using approval criteria contained in Section 16.28.040
- B. Time Limit on Approval. The lot line adjustment shall be effective for a period of one year from the date of approval, during which time it must be recorded.

### **16.28.040 Approval criteria.**

The city manager shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:

- A. No additional parcel or lot is created by the lot line adjustment; however, the number of lots or parcels may be reduced.
- B. Lot Standards. All lots and parcels comply with the applicable lot standards of the land use district including lot area and dimensions.
- C. Access. All lots and parcels comply with the standards or requirements of access and circulation.
- D. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district.
- E. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

### **16.28.050 Minimum conditions.**

Approvals shall be subject to the following minimum conditions:

- A. Deeds, based on a metes and bounds legal description, for all adjusted lots resulting from the lot line adjustment shall be recorded with the Lincoln County clerk's office.
- B. A certified boundary survey map that reflects the approved lot line adjustment shall be filed with Lincoln County. Prior to the filing of the survey map with Lincoln County, the map shall be reviewed by the city and signed by the city manager.

C. Copies of the recorded deeds and filed survey map shall be provided to the city following recordation.

**16.28.060 Recording lot line adjustments.**

- A. Recording. Upon the city's approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Lincoln County within one year of approval or the decision expires, and submit a copy of the recorded survey map to the city, to be filed with the approved application.
- B. Time Limit. The applicant shall submit the copy of the recorded lot line adjustment survey map to the city within fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.
- C. Lapsing of Approval. The lot line adjustment approval shall lapse if:
  - 1. The lot line adjustment is not recorded within the time limit of one year;
  - 2. The lot line adjustment has been improperly recorded with Lincoln County without the satisfactory completion of all conditions attached to the approval; or
  - 3. The final recording is a departure from the approved plan.

**16.28.070 Extension.**

The city shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

- A. No changes are made on the original plan as approved by the city;
- B. The applicant can show intent of recording the approved lot line adjustment within the one--year extension period; and
- C. There have been no changes in the applicable code or plan revisions on which the approval was based. In the case where the lot line adjustment conflicts with a code change, the extension shall be denied.

**Chapter 16.30 ADJUSTMENTS AND VARIANCES**

**Sections**

- 16.30.010 Adjustment – Purpose.
- 16.30.020 Adjustment – Procedure.
- 16.30.030 Adjustment – Review criteria.
- 16.30.040 Variances – Purpose.
- 16.30.050 Variance – Procedure.
- 16.30.050 Regulations which may and may not be varied.
- 16.30.060 Variance – Review criteria.
- 16.30.070 Appeals of adjustment and variance decisions.

### **16.30.010 Adjustment – Purpose**

The adjustment review process provides a mechanism by which the city manager may make limited modifications to the application of regulations in the development code. Adjustment reviews provide limited flexibility for unusual situations, while continuing to provide certainty and rapid processing for land use applications. Requests for changes from a numerical development standard of 10 percent or less of the standard are processed as “adjustments.” Requests for changes to standards which are not numeric or which are for more than 10 percent of the standard are processed as “variances,” and processed in accordance with chapter 17.68.

### **16.30.020 Adjustment – Procedure**

Adjustment requests are processed through a Type II procedure using the review criteria listed in TMC 16.30.030 in addition to the applicable requirements contained in Chapter 19.12

### **16.30.030 Adjustment – Review Criteria**

All adjustment requests will be approved if the city manager finds that the applicant has shown that the following criteria have been met:

1. The requested adjustment is for 10 percent or less of the numerical development standard;
2. The need for the requested adjustment is created by the configuration of an existing or proposed structure on the site;
3. The need for the requested adjustment is created by the configuration of the existing lot boundaries or topography of the site;
4. The design and operating characteristics of the proposed development are reasonably compatible with the placement of surrounding development and land uses, and any negative impacts have been sufficiently minimized; or
5. If more than one adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zoning district.

### **16.30.040 Variances – Purpose**

This section provides standards and procedures for variances, which are modifications to the development standards in Title 16 of this code that are not otherwise permitted elsewhere in this code as exceptions to code standards. This code cannot provide standards to fit every potential development situation. The city’s varied geography and complexities of land development require flexibility. This chapter provides that flexibility, while maintaining the purposes and intent of the code. The variance procedure provides relief from specific code provisions in Title 16 when they have the unintended effect of preventing reasonable development that is in conformance with all other codes. The variance procedure is intended to provide flexibility while ensuring that the purpose of each development standard is met. Variances are necessary when the applicant requests a deviation from numerical standards of more than 10 percent or a variance from non-numerical development standards.

### **16.30.050 Variance – Procedure**

A variance is processed as a Type III procedure using the review criteria listed in TMC 16.30.070 in addition to the applicable procedures contained in Chapter 19.16.

### **16.30.060 Regulations which may and may not be varied**

- A. Unless listed in subsection (B) of this section, all regulations in this code may be modified using the variance process.
- B. Variances are prohibited for the following items:
  - 1. As an exception to any restrictions on uses or development which contain the word “prohibited.”
  - 2. As an exception to a threshold for a review, such as the characteristics that would distinguish a minor partition from a major partition or subdivision.
  - 4. As an exception to a definition or classification.
  - 5. As an exception to the procedural steps of a procedure or to change assigned procedures.

### **16.30.070 Variance – Review Criteria**

The Planning Commission may approve an application for a variance if the applicant has shown that all of the following criteria have been met:

- A. The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same zoning district or in the vicinity;
- B. A hardship to development exists that is peculiar to the lot size or shape, topography, pre-existing structure(s), wetlands, floodplains, or other similar circumstances related to the property over which the applicant has no control, and that are not applicable to other properties in the vicinity;
- C. The development proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- D. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;
- E. The hardship is not self-imposed; and
- F. The variance request is the minimum variance that would alleviate the hardship.

### **16.30.080 Appeals of Adjustment and Variance Decisions**

Appeals of adjustment and variance decisions shall be processed in accordance with the provisions of Chapter 19, as applicable.

### **16.30.090 Time limit on approval of a variance**

- A. Except as provided in subsection B of this section, authorization of a variance shall be void after one year if the installation of any required improvements have not been completed and the final plat has not been recorded.
- B. The authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

## Chapter 16.32 LEGAL FRAMEWORK

### Sections:

16.32.010 Enforcement.

16.32.020 Interpretation.

16.32.030 Severability.

16.32.040 Penalty.

#### 16.32.010 Enforcement.

The city manager shall have the power and duty to enforce the provisions of ~~the ordinance codified in this chapter title~~.

#### 16.32.020 Interpretation.

The provisions of this ~~chapter title~~ shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provision of this ~~chapter title~~ are less restrictive than comparable conditions imposed by any other provisions, of this ~~chapter title~~ or of any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.

#### 16.32.030 Severability.

The provisions of ~~the ordinance codified in this chapter title~~ are hereby declared to be severable. If any section, sentence, clause, or phrase of the ordinance codified in this ~~chapter title~~ is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ~~chapter title~~.

#### 16.32.040 Penalty.

A person violating a provision of ~~the ordinance codified in this chapter title~~ shall be punished upon conviction by a civil penalty as a Class A infraction. This remedy is not intended to be exclusive and the city of Toledo may pursue any other remedy available to it by law.

### Title 19 – Land Use Procedures.

Partition      Type II†      Chapter 16.08