

**CHAPTER 16.27
GENERAL DEVELOPMENT STANDARDS AND REGULATIONS**

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* Terms defined in Chapter 16.49 MCC.

16.27.000 APPLICABILITY. The standards and regulations in this Chapter apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this Chapter pertaining to the subject lot, structure or use have been satisfied. The regulations in this Chapter apply to all zones unless otherwise specified. In certain cases regulations are applied to certain groups of zones.

The provisions of this Chapter are complementary and supplementary to other provisions of this title. In the event of a conflict between a provision of this chapter and a more restrictive provision of this title applicable to a particular lot, structure or use, the more restrictive provision shall apply.

16.27.010 STRUCTURES TO BE ON A LOT. All structures and uses shall be entirely situated on a single lot except as allowed under the unit ownership law (ORS 91.400 et seq.). Where a structure is placed on two or more separate lots under single ownership so that the structure overlaps the common boundary or encroaches on required yards along the common lot line the separate lots shall be considered a single lot for the purpose of this ordinance except that buildings which are attached at a common property line, but which meet all requirements of the Building Code as separate buildings, shall be considered separate and shall not have the effect of combining the affected lots.

16.27.020 DIVISION OR ALTERATION OF LOTS. In addition to any requirement in Chapter 16.33 MCC, Subdivision and Partition Requirements, no lot held under separate ownership shall be divided or altered so that it does not meet the requirements in this ordinance. If a lot does not meet such requirements at the time this ordinance is adopted it shall not be divided or altered in such a manner that the lot is less in conformity with these regulations in any respect, except as otherwise provided in this title.

16.27.030 LOT COVERAGE, GENERALLY. Specific standards for lot size or area, for lot dimensions, and for lot coverage are set forth in the applicable zone. Where a standard for lot coverage is expressed as a percentage, such standard means the percentage of total lot area covered by buildings and by roofed but unenclosed structures, whether or not attached to buildings. Covered structures less than five feet in height and having less than 20 square feet of gross floor area (such as pet shelters, play houses, etc.) shall not be included in calculating lot coverage.

16.27.050 DENSITY. The number of dwelling units allowed for the purpose of dividing land into lots, determining the number of dwellings in a planned development, or locating several dwellings on mobile homes on the same lot (including mobile parks) shall conform to the following density limitations. The minimum lot area shall be used to determine allowable density in partitioning. When the number of dwellings allowed includes a fraction of one-half or more the density shall be increased one dwelling unit.

- A. UD and RS Zone. One dwelling unit per lot unless provided otherwise in this ordinance; and one dwelling unit per 4,000 square feet of area devoted to residential use (i.e. excluding public streets, and areas in conjunction with non-residential uses).
- B. RL Zone. One dwelling unit per 3,000 square feet of lot area.
- C. RM Zone. One dwelling unit per 1,500 square feet of lot area, except 2,000 square feet of lot area for each mobile home in a mobile home park.
- D. CO Zone. One dwelling unit per 1500 square feet of lot area.
- E. Other Zones. One dwelling unit per lot, if dwellings allowed.

16.27.060 SEPARATION OF LOT OR YARD AREAS.

- A. Except as provided in subsection (C) of this section, no portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership from the portion of the lot on which the building containing the dwelling units is located.
- B. Except as provided in subsection (C) of this section, no required yard or other open space around an existing building shall be separated in ownership from the lot upon which the building is located.
- C. Except as provided in subsection (D) of this section no lot shall be so reduced or diminished that the required yards or other open space shall be smaller than prescribed by this title.
- E. In a planned development an open space lot or common area owned by the homeowners association may include the setbacks, yard areas, and other areas, or portions thereof, required by this title around dwellings and other buildings. Any portion of the planned development that is not a designated open space lot or common area may be included in a lot not owned by the homeowners association provided the lot owner is a member of the homeowners association.

16.27.070 YARDS TO BE UNOBSTRUCTED. A "required yard" is the minimum required setback area between a structure or mobile home and a lot line, whether or not additional open space is actually provided between the structure and the lot line. Every required yard or setback area shall be open and unobstructed by buildings, vehicles, or structures from the ground to the sky except for those exceptions permitted in this chapter.

16.27.080 YARDS APPLY ONLY TO ONE BUILDING. No required yard, setback area, or driveway provided around or for any building or structure shall be considered as providing a yard or setback area space for any other building or structure, nor shall any yard, setback area, driveway, or other open space on an adjoining lot be considered as providing a yard or setback area on the lot where on the building is to be erected.

16.27.100 PARKING IN YARDS.

- A. No parking, loading or storage areas for motor vehicles, utility trailers, recreational vehicles, boats, aircraft, or other similar vehicles shall be allowed within vision clearance areas, or within a required yard adjacent to a street except as provided in subsection (B) of this section.
- B. Parking, loading or temporary storage of vehicles described in subsection (A) of this section is permitted on driveways crossing from the street lot line to a permitted parking, loading, or storage area within required yards adjacent to streets except as limited in MCC 16.30.130(A).

16.27.110 FRONT YARD PROJECTIONS. The following projections are exempt from all front yard or street setback provisions of this title:

- A. Planter boxes, window bays, greenhouse windows, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, solar collectors, and ornamental features provided they do not project more than 24 inches into the required yard.
- B. Covered but unenclosed porches and uncovered porches, neither of which extend more than ten feet beyond the front walls of the building nor have any floor area more than four feet above grade. In no case shall any such projection come closer than 10 feet from the property line.
- C. Uncovered decks attached to residential buildings, provided that:
 - 1. At least a four foot landscaped yard is maintained between the front lot line and the deck.
 - 2. The height of the floor of the deck above grade at its point of connection to the building does not exceed 30 inches.
 - 3. The height of the floor of the deck above grade at its furthest extremity from the building does not exceed three feet.
 - 4. The height of any guardrail or perimeter seat does not exceed 44 inches above the floor of the deck at any point.
- D. Transit or school bus stop shelters provided they are not located more than five feet from a street right-of-way line and are not located in a vision clearance area.

16.27.120 SIDE YARD PROJECTIONS.

- A. Cornices, eaves, gutters, steps and fire escapes when not prohibited by any other ordinance, may project into a required side yard not more than one-third of the width of the required side yard, nor more than three feet in any case.
- B. Planter boxes, window bays, greenhouse windows, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, solar collectors, and ornamental features may project not more than 24 inches into a required side yards.
- C. Uncovered decks and patios attached to the main building when not elsewhere prohibited and heat pumps may extend to the side lot line when they are three feet or less above grade.

16.27.130 REAR YARD PROJECTIONS.

- A. Planter boxes, window boxes, greenhouse windows, steps, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, gutters, solar collectors, and ornamental features, may project not more than 24 inches into a required rear yard.

- B. A fire escape, balcony, outside stairway, cornice, heat pump, or other unenclosed, unroofed projection may project not more than five feet into a required rear yard provided that no portion thereof is within six feet of any lot line.
- C. Uncovered porches, covered but unenclosed porches or patios with roofs having no floor area more than four feet above grade and which shall not come closer than eight feet from the rear lot line, are exempt for this section.
- D. No permitted projection into a required rear yard shall extend within 10 feet of the centerline of an alley, or within six feet of an accessory building.
- E. Uncovered decks and patios attached to the main building when not elsewhere prohibited may be extended to the rear lot line provided they are four feet or less above grade measured directly beneath the outside edge of the deck or patio.

16.27.150 HEIGHT LIMITATIONS, GENERALLY. Wherever in this title there is expressed a standard for "building height" or a "height limitation" or similar expression, such standards shall apply as well to structures which are not buildings unless such structures are expressly excluded from their application. The highest point of a structure which is attached to a building shall be included in the height of the building unless exempt under 16.27.160 or other specific provision of this title. All heights specified in this title are to be measured from grade as provided in the definition of "height of building" in Chapter 16.49 MCC unless a different method of measure is specified.

16.27.160 HEIGHT EXCEPTIONS.

- A. Transmission towers*, steeples, chimneys, antennas, wind driven electrical generating equipment and monuments are exempt from the height limitation in the applicable zone provided they do not contain any habitable space. Flag poles equipped to raise and lower the flag are also exempt. These structures are not exempt from use specific height limitations or the height limitations in an applicable airport overlay zone. (The height limitations in residential zones include special setbacks for structures identified in this subsection).
- B. Mechanical penthouses, equipment, and appurtenances necessary to the operation or maintenance of the building or structure itself, including ventilators, plumbing and vent stacks, cooling towers, water tanks, panels or collectors for solar energy, and window washing equipment, together with enclosures for any such features are exempt from all height restrictions, except airport overlay zone height limitations, provided:
 1. They do not contain any offices, restrooms, storage rooms, or habitable space;
 2. That the sum of the horizontal section of all such projections at the height limit applicable to the building or structure on which they are located does not exceed 60 percent of the horizontal area of the roof of the building on which they are situated; and
 3. No such device or enclosure shall project more than 15 feet above the roof, measured vertically from any point on the device or enclosure.

16.27.200 VISION CLEARANCE AREAS. The following regulations shall apply to lots at all intersections of streets, alleys, roadways and driveways in order to provide safe visibility for vehicular and pedestrian traffic:

- A. Local street intersections shall have vision clearance areas defined by a minimum of 30-foot legs along each street. Where there is stop control at the intersection of local streets, the vision clearance area shall have a minimum of a 10-foot leg on the minor street and a 30-foot leg on the major street.

- B. Local streets intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by minimum of a 10-foot leg along the local street and a 80-foot leg along the collector or arterial street.
- C. Private roadways, driveways and public alleys intersecting local streets shall have vision clearance areas defined by a minimum of a 10-foot leg along the driveway and a 30-foot leg along the street.
- D. Private roadways, driveways, and public alleys intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by a minimum of a 10-foot leg along the driveway and a 50-foot leg along the collector or arterial street.
- E. The director of public works may prescribe special dimensions and conditions for the vision clearance area at intersections of driveways, roadways and streets with a public street according to recognized traffic engineering standards, where, due to grade, road alignment and geometry, irregular lot shape, substandard right of way width, or vehicle speeds, the vision clearance areas provided in subsections (A), (B), (C), and (D) of this section do not provide for adequate intersection visibility.
- F. The vision clearance area shall be defined as the area contained by a diagonal line across the corner between points on: a public right-of-way or public easement line; a boundary of a private roadway easement or 10 feet from the centerline thereof, whichever is greater; a line parallel to and 10 feet from the centerline of a driveway. The points are measured from the intersection of the right-of-way lines or the boundary of a roadway or driveway. If no point exists it shall be measured from the point of intersection of the projection of these lines.
- G. Except as provided in subsection (G)(1) and (2) of this section and in 16.27.110, the vision clearance area required by this section shall not contain any planting, fences, walls, structures, or temporary or permanent obstructions to vision, including parked vehicles, exceeding 30 inches in height above the curb level, or street centerline when there is no curb.
 - 1. Not more than two supporting posts or pillar are permitted within a vision clearance area. Posts and pillars shall not be greater than 12 inches in diameter or 12 inches on the diagonal if rectangular.
 - 2. Vision clearance shall be required to a minimum height of seven feet above the curb level or street centerline where there is no curb. Where public buses, trucks, and other service vehicles travel on the minor leg of the intersection, vision clearance shall be required up to a height of 10 feet above the curb level or street centerline where there is no curb.
- H. The street classification (local, collector or arterial) shall be as established in the Marion County Comprehensive Plan or applicable city comprehensive plan adopted by Marion County.
- I. The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping or setback requirements that may be required by this title or any other ordinance.

16.27.210 SPECIAL STREET SETBACKS.

- A. The special setbacks in this section are based upon the functional classification of streets as described in the applicable comprehensive plan, including streets outside, but abutting, an urban growth boundary. The purpose of these special setbacks is to permit the eventual expansion or improvement of streets and roads in order to safely accommodate vehicular or pedestrian traffic. The special setback shall be measured from the centerline of the street right-of-way.
- B. Except as provided herein structures and paved surfaces shall not be located within the special setbacks specified in subsection (E) of this section. Any portion of a structure lawfully established within a special

street setback prior to adoption of this title shall be considered a non-conforming structure. Other yards and setbacks specified adjacent to streets shall be in addition to the special setbacks required by this Section. These setback distances shall be measured at right angles to the centerline of the established right-of-way.

- C. The zoning administrator may approve placement of signs or light standards, and temporary structures, or paved surfaces upon determination that the county department of public works or Division of State Highways, if applicable, has no objections and provided the property owner signs a written agreement that the owner or his heirs or assigns will, within 45 days after being notified by the county remove all portions of the structure or signs, light standards, parking or temporary structures within the special setback. The agreement shall provide that if the owner fails to remove the listed items the county or state may do so at the expense of the owner and the expense shall be a lien against the land and may be collected or foreclosed in the same manner as liens entered in the county lien docket. The agreement shall be recorded by the owner in the applicable deed records. Notice requiring removal shall not be given until the responsible public agency proceeds to widen the street in front of the owner's property or the department of public works determines that the structure is a threat to the public health, safety or welfare. The agreement shall also provide that the owners shall not be entitled to any damages or compensation for the removing of any structure or loss of parking spaces approved under this provision but this stipulation shall not deny the owner the right to compensation for any land or any structures existing prior to the adoption of this title, taken for the widening of the street.
- D. The zoning administrator may also approve temporary structures within the street yard required in the applicable zone, exclusive of the vision clearance area, subject to the requirements in subsection (C) of this section.

E. Special Setback Requirements:

Functional Classification	Special Setback
1. Major Arterial	42'
2. Minor Arterial	34'
3. Collector	34'
4. Local street	30'
5. Local street - dead end less than 500 feet in length.	25' except 30' if possibility of future extension.
6. Cordon Rd. abutting the Salem Urban Growth Boundary	60'
7. If the applicable City Comprehensive Plan or implementing ordinances establish functional classifications and right-of-way standards those classifications and standards shall be the basis for identifying the special setback requirements under this section, provided in no case shall the special setbacks be less than 34 feet for arterials or collectors and 30 feet for local streets.	

16.27.220 WATER RESOURCES. Proposed land uses shall not significantly increase the adverse impacts on water resources. Development relying on groundwater as a water supply shall not have significant adverse affect on the groundwater resource. If there is evidence of groundwater limitation in the immediate area evidence shall be required that adequate water can be provided.

16.27.230 NOISE IMPACTS. Dwellings and places of public assembly shall not be located in a noise impact area, if, according to the Department of Environmental Quality, the noise impacts will be significant and adequate mitigation cannot be provided.

16.27.300 HISTORICAL SITES AND STRUCTURES. The following procedures and standards apply to historic sites and structures:

- A. Historic sites and structures regulated by this section shall be those sites and structures identified in the applicable city comprehensive plan.
- B. Alteration of any structure, or any change of use of land or structure designated as a historic site or structure shall be a conditional use. The criteria for approval of a conditional use are:
 - 1. Any use of the building or property should be compatible with the historical nature of the property.
 - 2. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, protection, stabilization, preservation, rehabilitation, restoration or reconstruction project.
 - 3. The alteration to the designated historic building, structure or site and its environment shall be only the minimum necessary to achieve the intended use.
 - 4. The distinguishing original qualities or character of a designated building, structure or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided or done pursuant to a plan approved by the city.
 - 5. All designated buildings, structures and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance should be discouraged.
 - 6. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment.

These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - 7. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
 - 8. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities to the extent possible. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - 9. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historical building materials shall not be undertaken.
- C. Demolition or removal of any structure designated as an historic site or structure is subject to the following procedures and criteria:

1. Demolition or removal of a structure designated as an historic site or structure shall require a conditional use permit.
2. No building, alteration, demolition or removal permits for any improvement, building, or structure shall be issued while the public hearing or any appeal is pending or prior to a final decision.
3. The county shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, taking into account the purpose of preserving the designated site or structure, and all other factors which it finds appropriate. The county may approve the application in which case the applicant can proceed subject to all applicable codes and ordinances.

The county may reject the application if it determines that in the interest of preserving historic values, the structure should not be demolished or removed, and in that event issuance of approval shall be suspended for a period fixed by the county, but not exceeding 30 days from the date of decision.

4. Within the suspension period, if the county determines that there is a program or project underway which could result in the public or private acquisition of the building or site and the preservation or restoration of such building or site, and that there is a reasonable ground to believe that the program or project may be successful, then the county, in its discretion, may extend the suspension period for an additional period not exceeding 60 days, to a total of not more than 90 days from the date of decision for demolition or removal. If at the end of 90 days the program or project is unsuccessful and the applicant has not withdrawn his application for demolition or removal, the council shall approve the application.

16.27.400 SPECIAL STREAM SETBACKS. To prevent encroachment of potential hazards in the flood plain of natural waterways particularly those not having a designated flood plain, there shall be a special setback from open waterways for all structures, fill, and outdoor storage as provided herein.

- A. Outdoor storage, fill, and structures with the exception of bank stabilization structures, dams, wires, cable crossings, power poles, docks, bridges, culverts, and ramps and streets leading thereto, are prohibited within the following setback areas.
 1. Thirty feet from natural lakes of one acre or more, reservoirs of one acre or more, and from the following natural waterways more than 15 feet wide: Willamette River, Santiam River, North Fork of the Santiam, Butte Creek, and the Pudding River. (See Chapter 16.20 MCC, Greenway Management Overlay Zone.)
 2. Twenty feet from all other perennial rivers and streams, and any portion of the rivers and streams in subsection (A)(1) of this section that are less than 15 feet in width.
- B. All measurements are horizontal and perpendicular from the line of non-aquatic vegetation, or the ordinary high waterline, whichever is furthest from the waterway.
- C. Where the combination of setbacks required in the applicable zone and the stream setback result in a buildable lot depth of less than 50 feet an adjustment to the stream setback or the setback requirements of the applicable zone may be granted provided the adjustment is the minimum necessary to accommodate the proposed structure.

16.27.500 ACCESS TO PUBLIC STREET REQUIRED. All uses shall be located on a lot having access to a public street. Access to a public street is defined as a minimum of 20 feet of frontage on one of the following:

- A. A public street with a right-of-way not less than 20 feet wide throughout that has been graveled or paved and is open for public use to the subject lot.

- B. A roadway not less than 20 feet wide graveled or paved and open for use to the subject lot prior to the effective date of this ordinance and connecting with a public street qualifying under subsection (A) of this section.
- C. A roadway not less than 20 feet wide with an all-weather surface connecting with a public street qualifying under subsection (A) of this section.. Where the subject easement provides access to two or more dwellings or primary uses it must be paved to a width of 12 feet from the subject property to a public street.
- D. A lot in a planned development owned by the home owner's association wherein a roadway is provided connecting a dwelling to a public street, and the roadway is improved as required in the approval of the planned development.

16.27.510 LIMITATIONS ON ACCESS TO ROADWAY. No new dwelling or primary use, other than farm or forest use, dependent solely on a roadway for access to a street shall be allowed unless:

- A. The roadway qualifies as access pursuant to MCC 16.27.500; and
- B. The lot upon which the dwelling or use is located was established in accordance with:
 1. County approval of a subdivision, partition or planned development prior to May 1, 1977, or in compliance with state law and county zoning regulations prior to the land division being regulated by the county; or
 2. County approval of a planned development, or a variance to MCC 17.110.800, after May 1, 1977 and prior to the effective date of the ordinance codified in this title; or
 3. County approval of a planned development after the effective date of the ordinance codified in this title; and
 4. There are four or less dwellings or independent primary uses (other than farm or forest use without a dwelling) depending solely on the roadway for access to a street.