

**STAFF REPORT
TO THE AMITY CITY COUNCIL**

REPORT DATE: January 29, 2020

HEARING DATE: February 5, 2020

FILE NO.: Legislative Amendment, City File #1911-01 LA

APPLICANT: City of Amity

SUMMARY: Amendments to various sections of the Amity Development Code (ADC), including:

- Amending the GC General Commercial zone to encourage parking in the rear of the property, and building entrances facing the dominant street frontage.
- Amending several sections to change the land use decision appeal period from 10 days to 12 days, consistent with the ORS, and require 20-day advance notice on hearings of appealed decisions.
- Resolve the definition of “adjoining” as it pertains to neighboring zones.
- Resolve confusing language in the Non-Conforming Uses & Structures section to clarify procedures, timelines, and eligibility.
- Protect opportunities for grandfathered existing nonconforming single-family dwellings by allowing continue, alter, replace, restore, and expand.
- Revise multiple Type I land use actions descriptions and criteria types to ensure only clear and object criteria are used in a staff-level decision. Revised Type I applications include Variance, Lot Line Adjustments, Home Occupations, and Temporary Uses.
- Clarify Lots of Record provisions.
- Remove public right-of-way dedication as a land use application type.
- Change Partitions eligibility from five years to three years.
- Add approval extension provisions for Partitions.
- Resolve conflict between partition deadline of one year for submitting or recording.
- Separate Similar Uses and Temporary Uses code sections, resulting in new Temporary Uses code provisions section.

CRITERIA:

1. Oregon Statewide Planning Goals & Guidelines
2. Amity Comprehensive Plan

EXHIBITS: Exhibit A: Draft Code Amendments

I. BACKGROUND:

At the January 2, 2019 meeting of the Amity City Council, Planning Commissioner Rob Kistler approached the City Council volunteering to lead an effort to make revisions to the Amity Development Code, in favor of design standards in the downtown core. At the next City Council meeting on February 6, 2019, staff provided the City Council a memo detailing the options and steps for possible code amendments and/or zone changes. With that information, the City Council decided by consensus that they did not support the expenditure of funds on this project at this time, but that the Planning Commission could proceed to brainstorm potential code amendments in work sessions.

The Amity Planning Commission discussed potential code amendments during work sessions on August 13, 2019 and September 10, 2019. From these work sessions, the Planning Commission generated a short list of amendments to recommend to the City Council. Of the proposed amendments, there were two which were design-oriented in nature, the rest were generalized as code clean-ups which attempt to clarify confusing code language, and to make the Amity code consistent with the Oregon Revised Statutes (ORS). The Planning Commission discussed the value of continuing to seek grant funding to conduct a larger code amendments package in the future, but opted to limit the scope of this first pass to “just the low hanging fruit.”

City Administrator Mike Thomas carried the short list of potential code amendments to the Amity City Council during their November meeting. The City Council approved, by motion, the list of recommended code changes, and authorized the City Administrator to contract the work. The approved minutes read: “Councilor Lehman moved to approve authorizing the City’s Planning Commission to initiate the legislative amendment process necessary to revise the City’s Development Code with the amendments proposed and authorize the expenditures as listed. Councilor Andrade seconded. With no further discussion motion passed 3-0.” Following City Council’s agreement to initiate the code amendments, the Planning Commission held public work sessions on November 18, 2019 and December 9, 2019 to refine the proposed amendments..

On January 13, 2020, the Amity Planning Commission held a public hearing on the package of proposed code amendments. There were four participating members of the public in attendance. During that public hearing, staff presented the proposed code amendments for consideration. Public comments received encouraged the Planning Commission not to require the two proposed Commercial zone amendments which would have required parking in the rear of the building and buildings to face the higher classification street. The reason for this caution was that while those standards might be desirable in a downtown district, they were viewed as inappropriate for the entire Commercial district of the community. There was concern that the rigid standards did not fit all business types, and could consequently discourage new business investments locally. Local business owners stated that it needs to be easy to pull off the road into a business. Public concerns were also heard about pedestrian safety and the ease of access for people with disabilities, when businesses are oriented away from a parking lot toward the street. There was also debate about the definition of adjoining as it pertains to setbacks along zone district boundaries. Following deliberation, the Planning Commission voted to use the language “encouraged” for parking in the rear and street facing main entrances, and to re-number a section viewed as a scribner’s error. The Code Amendments were recommended for City Council adoption by a 3-1-0 vote of the Planning Commission. The Nay vote was cast by Commissioner

Antinucci who preferred the Commercial district language be removed completely, and disagreed with the definition of adjoining, as presented. The Planning Commission recommends the City Council adopt the findings in the staff report, and adopt the package of code amendments, as revised by the Planning Commission on January 13, 2020.

II. PROCEDURE:

Pursuant to the Amity Development Code (ADC) section 3.101.04, a Legislative Amendment to the Development Code is a Type IV Action. A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot request a Type IV action. It must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process.

Pursuant to ADC 3.207.02 Procedure for Type IV Actions, a public hearing shall be held by the Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments and revisions of the Comprehensive Plan. The Planning Commission may continue any hearing in order to make a reasonable decision. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Section 3.202.

III. ANALYSIS OF APPLICABLE CRITERIA:

Note: The Amity Development Code only provides procedures for Legislative Amendments; it does not provide approval criteria. Consequently, the City of Amity must consider its own Comprehensive Plan and the Oregon Statewide Planning Goals & Guidelines, when making this decision. There are 19 Statewide Planning Goals. They are listed below, along with any pertinent language from the City's own Comprehensive Plan document. Generally, once a City's Comprehensive Plan has been acknowledged by the Oregon Department of Land Conservation and Development (DLCD), the plan is consistent with the Statewide Planning Goals. Amity's Comprehensive Plan was originally adopted in 1979. Some recent revisions were adopted in 2015.

OREGON'S STATEWIDE PLANNING GOALS & GUIDELINES / AMITY COMPREHENSIVE PLAN

GOAL 1: CITIZEN INVOLVEMENT OAR 660-015-0000(1) "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

FINDINGS: There are a number of public notices required to be provided when a local jurisdiction is considering a legislative amendment. The Oregon Department of Land Conservation and Development (DLCD) requires a minimum 35-day notice prior to the first public hearing. That notice was provided to the DLCDC on the day following the Planning Commission's December work session on this project, which was December 10, 2019, 34 days prior to the first hearing on the code amendments. The State of Oregon also requires that a "Measure 56" notice be mailed to all property owners who could be adversely affected by any new zones or zone restrictions, which includes changes to the development code. As such, every single property owner in the GC – General Commercial zone was mailed a letter

notifying them of the upcoming Code Amendments public hearing, and directing them to the proposed changes, which were posted on the City's webpage. That Measure 56 notice was required to be mailed a minimum of 20 days prior to the first hearing. It was mailed to 72 addresses on December 23rd, which was 21 days prior to the first public hearing. The ADC Section 3.202 Public Notice Requirements states that a Type IV Action requires a minimum 10-day newspaper publishing. A notice in the Yamhill Valley News Register was published on Tuesday, December 24, 2019, which was 20 days prior to the first public hearing, where only ten (10) days were required. A second notice was published on Tuesday, January 28, 2020, eight (8) days ahead of the second public hearing. A draft of the proposed code amendments was posted on the City's website for public review on December 24, 2019. The final proposed copy of the code amendments was posted to the City's website for public review on January 7, 2020 ahead of the Planning Commission meeting, and the final revised copy was posted on January 29, 2020 ahead of the City Council meeting. Staff and the Planning Commission find that this goal is satisfied.

GOAL 2: LAND USE PLANNING OAR 660-015-0000(2) *"To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."*

FINDINGS: The proposal does not involve exceptions to the Statewide Goals. Goal 2 supports clear and thorough local procedures. The ADC Section 3.101 establishes the decision process for Legislative Amendments which are a Type IV Action. Type IV actions require public hearings before both the Planning Commission and City Council with sufficient public notice, as detailed in ADC Section 3.202. The public hearings before the Planning Commission and City Council will be conducted in accordance with ADC 3.207. Staff and the Planning Commission find that this goal is satisfied.

GOAL 3: AGRICULTURAL LANDS OAR 660-015-0000(3) *"To preserve and maintain agricultural lands."*

FINDINGS: As the Amity Development Code only applies to properties within the incorporated City Limits where urban densities, uses, and facilities are available and required, Staff and the Planning Commission find that this goal does not apply.

GOAL 4: FOREST LANDS OAR 660-015-0000(4) *"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."*

FINDINGS: As the Amity Development Code only applies to properties within the incorporated City Limits where urban densities, uses, and facilities are available and required, Staff and the Planning Commission find that this goal does not apply.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-0150000(5) *"To protect natural resources and conserve scenic and historic areas and open spaces."*

FINDINGS: Staff finds no evidence that the development code amendments proposed herein could impact natural resources, scenic and historic areas, or open spaces. Staff and the Planning Commission find that this goal does not apply.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY OAR 660-015-0000(6) *“To maintain and improve the quality of the air, water and land resources of the state.”*

FINDINGS: Staff finds no evidence that the development code amendments proposed herein could impact air, water, and land resources quality. Staff and the Planning Commission find that this goal does not apply.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS *“To protect people and property from natural hazards.”*

FINDINGS: Staff finds no evidence that the development code amendments proposed herein could impact areas subject to natural hazards. Staff and the Planning Commission find that this goal does not apply.

GOAL 8: RECREATIONAL NEEDS OAR 660-015-0000(8) *“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.”*

FINDINGS: Staff finds no evidence that the development code amendments proposed herein could impact recreational amenities or opportunities. Staff and the Planning Commission find that this goal does not apply.

GOAL 9: ECONOMIC DEVELOPMENT OAR 660-015-0000(9) *“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.”*

FINDINGS: The Amity Comprehensive Plan includes Goals and Policies related to Population and Economics. Specifically related to this package of code amendments, “the City shall provide efficient, orderly, and convenient commercial and industrial areas that will enhance the livability of the community and meet the needs of its citizens.”

The City of Amity adopted an Economic Opportunities Analysis (EOA) in 2015 in accordance with Statewide Goal 9. The EOA includes an analysis of Amity’s economic environment in the context of local, regional, and national trends, and includes an assessment of the City’s economic strengths and weaknesses in order to determine how to maximize its economic development potential. The EOA does include some Development Code revisions in support of the local economy, however, none of those recommendations are included in the scope of this code amendments package.

The Amity Comprehensive Plan includes Goals and Policies related to Transportation. Specifically, that the City shall promote a multi-modal transportation system that adequately considers the needs of

drivers, pedestrians, cyclists, and public transit riders.” The proposed provisions to the GC – General Commercial zone, requiring parking in the rear of the lot and buildings facing the street, were intended to contribute to a more aesthetically-pleasing, pedestrian-friendly commercial corridor. The Planning Commission was reluctant to apply these two standards rigidly for the entire commercial zone, acknowledging that they may not fit all business types currently allowed within the GC zone (outside of the core business district). As such, the Planning Commission is proposing the language “encouraged,” so as not to preclude business opportunities which might otherwise be a good fit for the Amity community.

Under the new Temporary Uses section, the code strives to better define, regulate, and encourage temporary uses, examples of which might include: Christmas tree sales, firework sales, farm produce stands, food carts, etc. The Planning Commission envisions temporary businesses enhancing the product options available to local residents, while also allowing emerging businesses to test menu options, market their products, and establish loyal customers with low overhead, prior to making a significant long-term investment.

Staff and the Planning Commission find that this goal is satisfied.

GOAL 10: HOUSING OAR 660-015-0000(10) “To provide for the housing needs of citizens of the state.”

FINDINGS: The Amity Comprehensive Plan includes Goals and Policies related to Housing. Specifically, the Plan acknowledges the unique residential characteristics of the City, and aspires to encourage the upgrading of the existing housing stock. The Plan also includes a goal statement to provide housing that will meet the needs of the community in a manner that will best provide an adequate choice in all income ranges and housing types.

The proposed code amendments are expected to have a minor positive impact upon the housing opportunities within Amity in a couple ways. The most important amendments clarify the previously confusing Nonconforming Uses and Structures section, which already intended to protect all existing nonconforming single-family residences. The proposed amendments take the provision a step further to pull out the nonconforming single-family residences into a standalone section, allowing them to be continued indefinitely, without risk of losing status due to vacancy, and allowing homeowners to alter, expand, replace, or restore the structures to within five (5) feet of side and rear property lines (so as not to preclude the opportunities of neighboring properties). This is a very important section because Amity has many nonconforming single-family dwellings within the GC – General Commercial zone, as well as a few in the IL – Light Industrial zone. Additionally, by shortening the turn-around time between partition eligibility from five (5) years to three (3) years, property owners may be more inclined to make land available for residential development on a shorter timeline by dividing eligible residential lots already within city limits. Staff and the Planning Commission find that this goal is satisfied.

GOAL 11: PUBLIC FACILITIES AND SERVICES OAR 660-015-0000(11) “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

FINDINGS: The proposed code amendments are not anticipated to impact the timely, orderly, and efficient arrangement of public facilities and services. The code continues to require public facilities and services to be in place to serve development, and for developers to pay for associated connections and upgrades. Staff and the Planning Commission find that this goal is satisfied.

GOAL 12: TRANSPORTATION OAR 660-015-0000(12) *“To provide and encourage a safe, convenient and economic transportation system.”*

FINDINGS: Transportation goals of the Amity Comprehensive Plan of promoting a multi-modal system were referenced earlier, related to the proposed code amendments intended to support a pedestrian-friendly commercial corridor through Amity. No other impacts to transportation are anticipated. Staff and the Planning Commission find that this goal is satisfied.

GOAL 13: ENERGY CONSERVATION OAR 660-015-0000(13) *“To conserve energy. Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.”*

FINDINGS: Staff and the Planning Commission find that this goal does not apply.

GOAL 14: URBANIZATION OAR 660-015-0000(14) *The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

FINDINGS: As no change is proposed to the Urban Growth Boundary, City Limits, land use designations, or zone districts, Staff and the Planning Commission find that this goal does not apply.

GOAL 15: WILLAMETTE RIVER GREENWAY OAR 660-015-0005;

GOAL 16: ESTUARINE RESOURCES OAR 660-015-0010(1);

GOAL 17: COASTAL SHORELANDS OAR 660-015-0010(2);

GOAL 18: BEACHES AND DUNES OAR 660-015-0010(3);

GOAL 19: OCEAN RESOURCES OAR 660-015-0010(4)

FINDINGS: The proposed Code amendments do not involve land within the Willamette Greenway, identified estuarine, coastal shorelands, beach, or ocean areas. Staff and the Planning Commission find that Statewide Goals 15 through 19 do not apply.

IV. RECOMMENDATION:

Staff and the Amity Planning Commission recommend that the Amity City Council vote to adopt the findings included in the staff report, approve the proposed Development Code Amendments as attached in Exhibit A, and direct staff to prepare an enacting ordinance.

V. CITY COUNCIL ACTION:

The City Council may take one of the following actions:

- A. MOTION TO ADOPT the findings outlined in the staff report, APPROVE the Development Code Amendments as presented in Exhibit A, and direct staff to prepare an enacting ordinance.**
- B. MOTION TO ADOPT the findings outlined in the staff report, APPROVE the Development Code Amendments AS MODIFIED to reflect the changes desired by the City Council (stating those changes), and direct staff to prepare an enacting ordinance.
- C. MOTION TO CONTINUE THE PUBLIC HEARING to a date and time certain, and state the additional information that is needed to inform a future decision.

PROPOSED AMENDMENTS TO THE AMITY DEVELOPMENT CODE

FOR CITY COUNCIL PUBLIC HEARING FEBRUARY 5, 2020

Text which is underlined is proposed to be added. Text with ~~striketrough~~ is proposed to be deleted. All other text is existing within the Amity Development Code.

PROPOSED LANGUAGE	NOTES
<p>2.105 GENERAL COMMERCIAL ZONE (G-C)</p> <p>2.105.06 Development Standards All developments in the General Commercial Zone shall comply with the applicable provisions of Section 2.400. In addition, the following specific standards shall apply:</p> <p>A. Off Street Parking. Off street parking shall be as specified in Section 2.203.</p> <p><u>A. Off-Street Parking. Off-street parking is encouraged to be located in the rear of the property.</u></p>	<p>The goal is to support a more pedestrian-friendly, less auto-dominant commercial district. The Planning Commission debated this topic through several work sessions and the public hearing. The resulting language “encouraged” identifies a desire, but without enforcement teeth, in order to allow flexibility for different business types and site designs which may benefit the community.</p>
<p>2.105 GENERAL COMMERCIAL ZONE (G-C)</p> <p>2.105.06 Development Standards All developments in the General Commercial Zone shall comply with the applicable provisions of Section 2.400. In addition, the following specific standards shall apply:</p> <p><u>I. Building Entrance. Development in the General Commercial Zone is encouraged to face the primary building entrance toward the street. Development on corner lots is encouraged to face the street of higher functional classification, as adopted in the Amity Transportation System Plan. If a primary entrance does not face the higher classification street, structures are encouraged to include storefront windows facing the dominant street.</u></p>	<p>The goal is to support a more pedestrian-friendly, less auto-dominant commercial district.</p>

<p>3.200 ADMINISTRATIVE PROCEDURES 3.201 APPLICATION PROCEDURES</p> <p>3.201.01 Procedures for Type I Action</p> <p>G. A Type I land use decision may be appealed by the applicant to the Planning Commission. The appeal shall be filed, pursuant to the provisions of Section 3.205, within ten (10) <u>twelve (12)</u> days from the date of the decision.</p>	<p>Consistency with Oregon Revised Statutes (ORS)</p>
<p>3.200 ADMINISTRATIVE PROCEDURES 3.201 APPLICATION PROCEDURES</p> <p>3.201.02 Procedures for Type II and Type III Actions</p> <p>J. A Type II land use decision may be appealed to the City Council by either the applicant or persons receiving notice of the decision. The appeal shall be filed within ten (10) <u>twelve (12)</u> days from the date of the decision, pursuant to the provisions of Section 3.205. Type III land use applications are automatically reviewed by the City Council.</p>	<p>Consistency with Oregon Revised Statutes (ORS)</p>
<p>3.202 PUBLIC NOTICE REQUIREMENTS 3.202.04 Notice for Appeals</p> <p>Notice of hearings on appeal to either the Planning Commission or City Council shall be pursuant to Section 3.202.02, and shall include written notice at least ten (10) <u>twenty (20)</u> days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.</p>	<p>Section 3.202.02 referenced in this section calls for twenty (20) days public notice via mail and newspaper. Staff recommends keeping this consistent.</p>

<p>3.205 APPEAL PROVISIONS. 3.205.01 Appeal Period</p> <p>A. The decision of the City Administrator shall be final for a Type I land use decision unless a notice of appeal from an appropriate aggrieved party is received by the City within ten (10) <u>twelve (12)</u> days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) <u>twelve (12)</u> days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal.</p> <p>B. The decision of the Planning Commission for a Type II land use decision, or the appeal of a Type I decision, shall be final unless a notice of appeal from an aggrieved party is received by the City within ten (10) <u>twelve (12)</u> days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) <u>twelve (12)</u> days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal.</p>	<p>Consistency with Oregon Revised Statutes (ORS)</p> <p>Revise to clarify ordered within 12 days, not reviewed within 12 days.</p>
<p>1.200 DEFINITIONS</p> <p>Adjoining: Contiguous or abutting, exclusive of street width. It shall include the terms adjacent, abutting, or contiguous. <u>Properties shall still be considered adjoining if a private or public street right-of-way runs between them.</u></p>	<p>Clarify ambiguous language.</p>
<p>1.200 DEFINITIONS</p> <p>Non-Conforming Structure or Use: A lawfully existing structure or use at the time this Ordinance or any amendments thereto becomes effective, which does not conform to the requirements of the zone in which it is located.</p>	<p>Remove hyphen from word “non-conforming” for consistency with other sections of ADC.</p>
<p>3.106 NONCONFORMING USES <u>AND STRUCTURES</u></p> <p>3.106.01 Purpose Within the zoning districts established by this Ordinance and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Ordinance but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of such nonconforming uses to conforming uses. However, this Section allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified. Nothing</p>	<p>Title revised for consistency with the definition and section content.</p>

contained in this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this Ordinance or any amendment thereto. However, no alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section. ~~A nonconforming single-family dwelling may be continued, altered, or restored for residential purposes without review. A single-family dwelling does not lose its nonconforming status due to vacancy.~~ Nonconforming lots are addressed in Section 2.401.03 Lots of Record, and are not subject to the criteria of this Section.

3.106.02 Process

Nonconforming uses shall be reviewed in accordance with ~~either Type I or~~ Type II review procedures.

3.106.03 Application and Fee

An application for an alteration, expansion or continuation of a nonconforming use shall be filed with the City ~~Manager~~ Administrator and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section

3.106.04 Discontinuation of Use

If a non-conforming use is discontinued for a period of more than six (6) consecutive months, the use shall not be resumed unless the new or resumed use conforms with the requirements of this Ordinance. This does not apply to non-conforming single-family dwellings.

3.106.05 Alterations Required by Law

The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure; or to bring the use or structure into closer compliance with this Ordinance; shall be permitted, subject to all other laws, ordinance and regulations.

3.106.06 Maintenance

Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the Building Official.

This provision should not be included in the "purpose" statement. Relocated.

Nonconforming lots are addressed separately from nonconforming uses and structures. This should be noted, directing readers to the appropriate section.

Amity has a City Administrator, not City Manager. In the future, this should be corrected throughout the entire Code document.

3.106.07 Alteration, Restoration, or Replacement

A. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

~~A. The City Manager shall authorize restoration or replacement of a nonconforming use or structure when restoration or replacement is made necessary by fire, casualty, or natural disaster and does not exceed 50% of the value of the original structure, provided the physical restoration or replacement is lawfully commenced within six (6) months of the damage or destruction.~~

~~A non-conforming residential structure may be replaced or restored regardless of the value involved, provided current building codes are met by the replaced or restored structure.~~

~~B. The Planning Commission, subject to the Type II review procedure, may extend the restoration or replacement period for an additional six (6) months. In no case shall the total restoration or replacement period exceed one (1) year. Requests for extension of restoration or replacement period shall be submitted in writing thirty (30) days prior to the expiration date of the restoration or replacement period.~~

~~C. B. The alteration, restoration, or replacement of a nonconforming use or structure may be authorized by the Planning Commission, subject to the Type II review procedure, provided that the applicant demonstrates that the proposal satisfies the following criteria:~~

~~1. That the alteration, restoration, or replacement of structures would result in a reduction in nonconformity of the use, or would have no greater adverse impact on the neighborhood.~~

~~2. A change in use to another non-conforming use may be permitted if it is of the same or less intensity of use.~~

~~3. The alteration of a non-conforming single family residence, that does not involve a change in use, is~~

Relocated from purpose statement above.

Strike confusing language. New similar language proposed below without value measurement.

Combined all residential sections into new residential section below.

Relocated below.

If this language is not a review criterion, it should not be located here.

~~authorized without Planning Commission or City Manager approval.~~

~~C. **3.106.08 Conditions of Approval** In approving the alteration, restoration, or replacement of a nonconforming use, the Planning Commission may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.~~

~~D. The applicant must make application for a restoration or replacement within six (6) months of damage or destruction.~~

~~E. Planning Commission approval shall be valid for six (6) months. This approval period shall be satisfied by the issuance of building permits for the approved work.~~

~~B. F. The Planning Commission, subject to the Type II review procedure, may extend the approval restoration or replacement period for an additional six (6) months. ~~In no case shall the total restoration or replacement period exceed one (1) year.~~ Requests for extension of approval restoration or replacement period shall be submitted in writing thirty (30) days prior to the expiration date of the restoration or replacement approval period. ~~In no case shall the total approval period exceed one (1) year from a final decision.~~~~

3.106.08 Conditions of Approval Nonconforming Single-Family Residential Structures

A nonconforming single-family dwelling may be continued, altered, expanded, replaced, or restored for residential purposes without Planning Commission review. A single-family dwelling does not lose its nonconforming status due to vacancy. A nonconforming residential structure may be replaced or restored regardless of the value involved, provided current building codes are met by the replaced or restored structure. The alteration of a non-conforming single-family dwelling, that does not involve a change in use, is authorized without Planning Commission or City Manager approval, provided current building codes are met by the replaced or restored structure, and all required permits are secured. A non-conforming single-family

Relocated

Consolidated all nonconforming language about residential uses here into this new section. As written, Amity's code intends to preserve all existing non-conforming single-family residences indefinitely.

The five (5) foot setback limitation was recommended so as not to preclude a neighbor's opportunities to do the same.

<p><u>dwelling shall not expand into less than five (5) foot setbacks from all side and rear property lines.</u></p>	
<p>2.401.03 Lots of Record</p> <p>A. A parcel is a legal lot of record for purposes of this Ordinance when the lot conforms to all zoning requirements and Comprehensive Plan provisions, if any, in effect on the date when a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.; except</p> <p>B. Contiguous lots under the same ownership when initially zoned shall be combined, for the purposes of this Ordinance, when any of these lots do not satisfy the lot size requirement of the initial district. A lot or parcel which is a separate legal lot or parcel prior to the adoption of this provision shall remain a separate legal lot regardless of ownership.</p> <p>C. Lots in recorded plats shall not be combined under Subsection 2.401.03 (B).</p> <p>D. The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use is commenced, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations. However, no dwelling shall be built on an existing lot of less than 3,000 square feet in area.</p>	<p>This section addresses nonconforming lots, as separate from nonconforming uses and structures.</p> <p>This section contradicts itself.</p> <p>This is consistent with the most current discussions with the County Surveyor.</p> <p>This existing language addresses nonconforming lots.</p>
<p>3.100 APPLICATION REQUIREMENTS AND REVIEW CRITERIA</p> <p>3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES</p> <p>All development permits and land use actions are processed under the administrative procedures provided for in this section. There are four types of actions, each with its own procedures.</p> <p>3.101.01 Type I Action</p> <p>A ministerial action reviewed by staff based on clear and objective standards. No conditions may be placed on the decision and notice of the decision is sent only to the applicant. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:</p> <p><u>A.</u> Minor Variance <u>B.</u> Lot Line Adjustment <u>C.</u> Home Occupation</p>	<p>These are the Type I Actions which should have no discretion in the criteria.</p> <p>Renumbered to match subsequent section formatting.</p>

- D. Fence Permit
- E. Sign Permit
- F. Floodplain Permit
- G. Temporary Use Permit

3.101.02 Type II Action

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing is provided, see Section 3.202. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Major Variance
- B. Conditional Use Permit
- C. Site Design Review
- D. Similar Use
- E. Non-Conforming Uses
- F. Partitions
- G. Subdivision
- H. Planned Unit Development

3.101.03 Type III Action

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. The Planning Commission has an advisory role. Public notice is provided and public hearings are held at the Planning Commission and City Council, see Section 3.202. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Zone Change
- B. Annexation
- C. Vacation
- ~~D. Road Dedication~~

Note: the code mostly uses “nonconforming” without a hyphen.

A road dedication is most commonly conducted in conjunction with a land division/development application. Rarely is it a standalone action. Because it is not a land use application type, the ADC does not contain criteria for this action.

3.102 VARIANCE

3.102.04 Criteria and Procedure - Minor Variance

The City Administrator may allow a minor variance from a requirement or standard of this Ordinance in accordance with the Type I review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- ~~A. The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development;~~
- ~~OR,~~

If a variance is to remain a Type I application, the criteria must be clear and objective. Strike criteria requiring discretion.

~~B. The particular development as proposed otherwise clearly satisfies the intent and purpose for the provision sought to be varied; and~~

~~C. The proposed development will not unreasonably impact adjacent existing or planned uses and development; and~~

~~D. The minor variance does not expand or reduce a quantifiable standard by more than 20 percent and is the minimum necessary to achieve the purpose of the minor variance; and~~

~~E. There has not been a previous land use action approved on the basis that a minor variance would not be allowed.~~

3.107 LOT LINE ADJUSTMENTS

3.107.01 Applicability

A lot line adjustment is a change to a property boundary that only modifies existing lots and does not create a parcel of land. ~~or reduce the number of lots.~~

3.107.02 Standards

A. A lot line adjustment cannot create ~~or vacate~~ a parcel. Creation ~~or vacation~~ of a parcel requires approval of a land division.

B. Following the lot line adjustment, all lots must comply with lot size and dimensional standards of the applicable land use district. For nonconforming lots, the adjustment shall not increase the degree of nonconformance of the subject property or surrounding properties.

C. If there are existing structures on the parcels, the lot line adjustment may not result in a setback violation.

~~D. The adjustment should not reorient or significantly reconfigure the lots or parcels.~~

3.107.03 Submittal Requirements

The following information and material must be submitted by the applicant: ...

Revise for consistency with ORS.

ORS 92.010

“Property line adjustment” means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

“Significantly” is not clear and objective (Type I criteria).

<p>B. Each application shall be accompanied by a preliminary map drawn to scale of not less than one inch equals fifty (50) feet, and containing at a minimum, the following:</p> <p>1. A written statement which explains the applicants reasons for adjusting the boundaries and demonstrating that the adjustment conforms to City land use policies and regulations of the applicable zone.</p> <p>3.107.04 Process A lot line adjustment is subject to Type I review. After a lot line adjustment is approved, the new boundary becomes effective only after the following steps are completed:</p> <p>A. A metes and bounds legal description of the adjusted lots is recorded with the Yamhill County Clerk.</p> <p>B. If required by ORS Chapter 92, or the requirements of this ordinance, <u>or the Yamhill County Surveyor</u>, a final plat and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final plat is submitted to the City for signatures and approval as outlined in Sections 3.108.04 and 3.108.05.</p>	<p>The Development Code contains regulations to implement the policies of the Comprehensive Plan. Policies are not criteria here.</p>
<p>3.108 PARTITIONS</p> <p>3.108.01 Applicability/Review Criteria A partition is required for any land division which creates two or three parcels in any three five year period. The parcels shall meet the Development Standards for Land Division of Section 2.208, other applicable development standards and the following additional requirements:</p> <p>C. Each parcel's proposed use will not substantially limit, impair or preclude existing uses in surrounding properties.</p> <p>3.108.02 General Provisions ...</p> <p>B. No parcel within an approved partition may be redivided within the next <u>three (3)</u> 5 calendar years in which it was recorded, except through the subdivision process.</p>	<p>ORS 92.010 "Partitioning land" means dividing land to create not more than three parcels of land within a calendar year...</p> <p>State defines as one-year, Amity code currently says five years. Planning Commission recommends three (3) years. The time limit purpose is to avoid serial partitions.</p> <p>A land division application would not be reviewing proposed uses. This requirement does not apply.</p>

<p>C. A master plan for development is required for any application which leaves a portion of the subject property capable of replatting.</p>	<p>This is an additional cost to the applicant without any clear criteria by which to review the master plan. There are no teeth with which to hold an applicant to that plan. Recommend removal.</p>
<p>3.108.05 Final Plat Approval</p> <p><u>A. Within one (1) year of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded. If the final survey is not submitted recorded within 1 year, the preliminary approval shall lapse. Final plats shall conform with the requirements of Section 3.108.04 and shall be reviewed in accordance with Section 3.201.02.</u></p> <p><u>B. The Planning Commission may extend the approval period for any partition for not more than one (1) additional year at a time. Requests for extension of approval time shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.</u></p> <p><u>C. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.</u></p>	<p>Resolved conflicting language between submitting and recording.</p> <p>The existing partition code does not provide for extensions. This language is copied from the subdivision section.</p>
<p>1.200 DEFINITIONS</p> <p>Home Occupation: A lawful occupation carried on by a resident of a dwelling as a secondary use within the same dwelling. The residential character of the property is maintained in a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term. A home occupation shall not include the outside storage of equipment or materials.</p>	<p>The regulations belong in the Home Occupation section 2.305 rather than in the definition.</p>

<p>2.305 HOME OCCUPATIONS</p> <p>2.305.01 Standards Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:</p> <p>A. Participation: ...</p> <p>B. Character: The character and primary use function of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping or lack of landscaping.</p> <p>C. Traffic: ...</p> <p>D. Noise: ...</p> <p>E. Equipment and Process Restrictions: ...</p> <p>F. Hazards: ...</p> <p>G. Signs: ...</p> <p>H. On-Premise Client Contact: ...</p> <p>I. Deliveries and Large Vehicle Storage:</p> <p>J. Parking: ...</p> <p>K. Storage and Use of Yard Areas: ...</p> <p>L. Day care facilities ...</p>	<p>Criteria about character and materials involve discretion, which is not permitted in a Type I decision.</p> <p>Remaining sections are renumbered following the deletion of (B).</p>
<p>3.105 SIMILAR AND TEMPORARY USES</p> <p>3.105.01 Purpose The purpose of this Section is to provide for those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein, or are structures or uses of a temporary or transitory nature.</p> <p>3.105.02 Process Similar and Temporary uses requests shall be reviewed in accordance with the Type II review procedures</p>	<p>Recommend separating Similar Uses and Temporary Uses. Temporary uses are listed as a Type I action and Similar Uses are Type II (discretion is used).</p>

3.105.03 Application and Fee

Any application for a similar use shall be filed with the City Administrator and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

3.105.04 Review Criteria

A similar ~~or temporary~~ use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

A. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to uses specified in the underlying district, and

B. The use conforms with the applicable standards and limitations of the underlying zoning district,~~or~~

~~C. The use may or may not be consistent with the purpose of the underlying zoning district, but will not negatively impact such purposes, and will continue for a period not to exceed 180 days.~~

3.105.05 Determination

A. In approving an application for a similar use, the Planning Commission ~~City Manager~~ may:

- 1. Determine whether the use is prohibited, permitted or conditionally permitted in the specified zone.
- 2. Determine whether the use is permitted or conditionally permitted in a different zone.
- 3. Consistent with the development requirements of the identified zone, determine whether additional land use actions, such as conditional use approval or a site plan review, are required.

B. The determination by the ~~City Manager~~ Planning Commission that a proposed similar use cannot be accommodated, ~~or a Temporary Use granted,~~ in a given

<p>zone does not preclude an appeal to the Planning Commission, <u>City Council</u> by the appropriate party, for an amendment to the text of the Comprehensive Plan and/or Development Code. The Planning Commission <u>City Council</u> will evaluate such appeals based on the following criteria:</p> <ol style="list-style-type: none"> 1. It's similarity to approved uses; 2. It's likely impact on surrounding existing uses; 3. It's likely public benefit. 	
<p>1.200 DEFINITIONS</p> <p>Temporary Use: A use that is 1) seasonal or directed toward a specific event or period of time; or 2) occasioned by an unforeseen event.</p>	<p>No changes proposed, definition provided for reference only.</p>
<p><u>3.105.113 TEMPORARY USES</u></p> <p><u>3.105.01 3.113.01 Purpose</u> <u>The purpose of this Section is to grant opportunities for seasonal and short-term businesses to provide local residents and visitors access to new products and markets. Emerging businesses may also benefit from the opportunity to test and promote their products with lower overhead, prior to investing in a permanent location. Examples of temporary uses include Christmas tree sales, firework stands, farmers markets, food carts, etc.</u></p> <p><u>3.105.02 3.113.02 Process</u> <u>Temporary use requests shall be reviewed in accordance with the Type I review procedures</u></p> <p><u>3.105.03 3.113.03 Application and Fee</u> <u>Any application for a temporary use shall be filed with the City Administrator and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.</u></p> <p><u>3.105.04 3.113.04 Review Criteria</u> <u>A temporary use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:</u></p>	

A. The use is authorized by the property owner.

B. The use conforms with the dimensional standards of the underlying zoning district.

C. The use is consistent with all City municipal code policies related to nuisance and noise.

D. The use has secured all applicable State and County permits for operation.

E. The use does not involve in any type of development activities or site alteration which would otherwise require land use review.

F. The use either does not require or has secured Oregon Department of Transportation (ODOT) permits, if located along a right-of-way within ODOT jurisdiction.

3.105.05 3.113.05 Determination and Appeals

A. Upon reviewing an application for a temporary use, the City Administrator may determine whether the temporary use is prohibited or permitted at the specified location.

B. A determination by the City Administrator may be appealed to the Planning Commission by the appropriate party, through a Type II review process.

3.105.06 3.113.06 Extensions

A. Temporary Uses may be approved for a period of 90 consecutive days, regardless of how many of those days are used.

B. Extensions of an approved temporary use may be granted by the City Administrator if requested in writing not less than fifteen (15) days prior to the approval expiration. In no case shall the temporary use exceed 180 consecutive days in a 12-month period of time, as measured from the start of operation.