

ARTICLE 7

MISCELLANEOUS PROVISIONS

10.7.000 OVERVIEW OF ARTICLE 7

This Article includes miscellaneous provisions for special uses or exceptions that are not addressed elsewhere in the Code. The following list summarizes topics covered in this Article:

- Accessory Dwelling Units
- Accessory Structures
- Bed & Breakfast Inn
- Fences
- General Exceptions
- Home Occupations
- Manufactured Homes on Lots
- Nonconforming Development
- Solid Waste & Recycling Storage
- Wireless Communication Facilities

These headings can assist the user in locating information. The table of contents contains a complete list of the material included in this Article.

ACCESSORY DWELLING UNITS

10.7.005 PURPOSE

The purpose of this section is to allow for establishment of an accessory dwelling unit in conjunction with a single-family dwelling in any zone that allows residential uses. An accessory dwelling unit may be permitted as a means to provide more affordable housing opportunities for young families and the elderly; encourage additional density at minimal cost and disruption to surrounding neighborhoods; allow individuals and smaller households to retain large houses as residences; and allow more energy efficient use of large, older homes.

10.7.010 PROCEDURE

An application for an accessory dwelling unit shall be reviewed by the Director under the Type I procedure.

10.7.015 STANDARDS

One (1) accessory dwelling unit may be allowed in conjunction with a single-family dwelling by conversion of an existing space, by means of an addition, or as an accessory structure on the same lot with an existing dwelling, subject to the following standards and limitations:

- A. The owner(s) of the primary dwelling shall occupy at least one (1) of the units;
- B. Any addition shall not increase the gross floor area of the original dwelling by more than 10%;
- C. The gross floor area of the accessory dwelling unit shall not exceed 30% of the primary dwelling's gross floor area, or 720 square feet, whichever is less;
- D. One (1) additional off-street parking space shall be provided in addition to the required parking for the primary dwelling;
- E. The accessory dwelling unit shall have exterior siding and roofing similar in color, material and appearance to that used on the primary dwelling; and
- G. The accessory dwelling unit shall comply with applicable fire and live safety codes.

ACCESSORY STRUCTURES

10.7.020 STANDARDS

Accessory structures shall comply with all requirements for the principal building, except where specifically modified by this Code, and shall comply with the following limitations:

- A. Accessory structures are limited to a maximum ground floor area of 720 square feet;
- B. Accessory structures shall not be located in any required front yard;
- C. Accessory structures shall not be located closer than five (5) feet to any side or rear property line;
- D. Detached accessory structures shall not be located within six (6) feet of the principal building or other accessory building on the same lot;
- E. Any accessory structure attached to the principal building must comply with all setbacks for the principal building (attached means wall-to-wall or any permanent roof attachment such as a breezeway); and
- F. Portable metal structures that require no assembly, such as shipping containers, are prohibited in residential zones beyond 60 days; and
- G. No accessory structure shall encroach upon or interfere with the use of adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.

BED AND BREAKFAST INN

10.7.025 PURPOSE

This section is intended to:

- A. Enable homeowners to open their homes to the traveling public and provide guest rooms and breakfast in a home-like atmosphere;
- B. Diversify accommodations available in Forest Grove to promote tourism in the City;
- C. Provide owners of historic homes an opportunity to take economic advantage of the character of their properties and encourage maintenance and preservation;
- D. Preserve the residential use and character of the Bed and Breakfast Inn and avoid negative impacts on neighboring properties.

10.7.030 PROCEDURE

A bed and breakfast inn limited to three (3) guest rooms is permitted with Type I review in the single-family zones and the RML and Neighborhood Commercial zones. A bed and breakfast inn with up to twenty-seven (27) guest rooms is permitted with Type I review in the RMH zone. A bed and breakfast inn is permitted outright in all other zones that allow motel/hotel uses.

10.7.035 STANDARDS

- A. The bed and breakfast inn shall be owner/operator occupied and limited to the number of guest rooms specified above;
- B. The bed and breakfast inn shall provide breakfast to overnight guests of the establishment only; and
- C. The bed and breakfast inn shall provide one (1) off-street parking space for each guest room in addition to two (2) off-street parking spaces required for the permanent residents.
- D. A reduction in the off-street parking requirements may be permitted with Type III conditional use review if the applicant shows that:
 - 1. There is adequate and safe off-street parking available to the guests within 300 feet of the bed and breakfast inn; or
 - 2. In the case of a property listed on the Forest Grove Inventory of Historic and Cultural Resources, there is adequate on-street parking available to the guest which will not adversely affect neighboring property owners; and
 - 3. Provision of the required off-street parking would be detrimental to the historic or cultural value of the site.

FENCES

10.7.040 STANDARDS FOR RESIDENTIAL ZONES

The following standards apply to fences, walls and screens in all residential zones and for residential uses in all other zones:

- A. Front yard. Fences within the required front yard setback area are limited to a height of three and one-half (3 ½) feet;
- B. Side and rear yards. Fences within the side and rear yards are limited to a height of six (6) feet. The fence may be placed on the property line but shall be reduced to a height of three and one half (3 ½) feet in the required front yard;
- C. Corner lots. On corner lots, which by definition have two (2) front yards, may have a fence up to six (6) feet in height in the front yard adjacent to the street that does not contain the dwelling's primary entrance when one of the following conditions is met:
 - 1. If the street is improved with curbs and gutters, with or without sidewalks, the fence is located a minimum of ten (10) feet from the face of the curb; or
 - 2. If the adjoining street is unimproved, the fence is no closer than three (3) feet from the property line.
- D. Separation from utilities. Fences shall be installed at least 3 feet from a utility pedestal or electrical transformer; and
- E. Clear vision area. All fences shall comply with the clear vision area requirements for streets and driveways (See Section 10.8.150).

10.7.045 STANDARDS FOR ALL OTHER ZONES

The following standards apply to fences, walls and screens for non-residential uses in all other zones:

- A. Side and rear yards. Fences within side and rear yards are limited to a height of eight (8) feet. The fence may be placed on the property line;
- B. Separation from utilities. Fences shall be installed at least three (3) feet from a utility pedestal or electrical transformer;
- C. Clear vision area. All fences shall comply with the clear vision area requirements for streets and driveways (See Section 10.8.150); and
- D. Front yards. Through Site Development Review or Design Review for new industrial or commercial uses, the Director or Design Review Commission may establish conditions relating to fence heights in front yards and along the streets and sidewalks.

GENERAL EXCEPTIONS

10.7.050 EXCEPTIONS TO LOT SIZE, YARDS AND PROJECTIONS

- A. Exceptions to Lot Size and Dimension Requirements for Residential Use. If an existing lot in single ownership at the time of adoption of this Code does not meet minimum lot area or dimension requirements of the applicable residential zone, the lot may be occupied by a residential use permitted outright in the respective zone. If there is an area deficiency, the residential use shall be limited to a single-family residence.
- B. Exceptions to Yard Requirements. The following exceptions to the front yard requirement for a single family dwelling or duplex in a residential zone are allowed without the need for an adjustment:
1. If there are dwellings on both abutting lots with front yards less than the required depth for the zone, the front yard for the new dwelling need not exceed the average front yard of the abutting dwellings; and
 2. If there is a dwelling on one (1) abutting lot with a front yard less than the required depth for the zone; the front yard for the new dwelling need not exceed a depth one-half (1/2) way between the depth of the structure on the abutting lot and the required front yard depth.

The Director may require a greater front yard depth than specified in the code when the lot abuts a street that is designated for widening by the City.

- C. Projections into Required Yards. The following structures may project into required yards:
1. Unroofed paved terraces and wood decks less than three (3) feet in height may project into required side or rear yards.
 2. Unroofed landings and stairs may project into required front or rear yards.
 3. Window sills, belt courses, cornices, eaves, canopies, sunshades, gutters, leaders and similar incidental architectural features – excluding balconies and decks more than three (3) feet from ground level – may project not more than two (2) feet into any required yard.
 4. Chimneys shall not project more than two (2) feet into any required yard.

HOME OCCUPATIONS

10.7.055 PURPOSE

Home occupations are activities that are accessory and incidental to the primary residential use of a property. Standards ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The home occupation provisions recognize that many types of jobs can be performed in a home with little or no effects on the surrounding neighborhood.

10.7.060 PROCEDURE

A home occupation is permitted in conjunction with any residential use under the Type I procedure, provided it complies with the standards listed below.

10.7.065 STANDARDS

The home occupation shall not change the residential character of the dwelling and shall meet all of the following standards and limitations:

- A. Any product produced on-site for sale must be hand manufactured or grown using only hand tools or domestic mechanical equipment. Such domestic mechanical equipment shall not exceed horsepower or other measurements of power, which would typically be used by a residential homeowner.
- B. There shall be no outdoor storage of material or products on the premises. Indoor storage of material or products shall not exceed the limitations imposed by the Building, Fire, Health and Housing Codes.
- C. The home occupation shall not generate vehicular traffic measurably in excess of that normally associated with single-family uses.
- D. No more than 20% of the floor area of the dwelling shall be used for the home occupation.
- E. One sign shall be permitted, not exceeding six (6) square feet in area, non-illuminated and professionally prepared.
- F. The home occupation shall not cause the elimination of required off-street parking.
- G. The home occupation shall not cause any external effects such as increased noise, excessive lighting, or excessive odor that is incompatible with the characteristics of the residential zone, or in violation of any applicable government code.
- H. There shall be no more than two (2) outside paid employees.
- I. A business occupancy permit is required for the home occupation.

MANUFACTURED HOMES ON LOTS

10.7.070 PURPOSE

The provisions regulating manufactured homes located outside of manufactured home parks are adopted for the following purposes:

- A. To accommodate manufactured homes as permitted uses in all residential zones;
- B. To assist in providing opportunities for low and moderately priced single-family housing;
- C. To provide standards to ensure a high-quality environment; and
- D. To provide standards to protect the character of existing neighborhoods.

10.7.075 STANDARDS

A manufactured home may be located on an individual lot outside of a manufactured home park provided:

- A. It is multi-sectional and encloses a space of not less than 1,000 square feet;
- B. It is placed on an excavated and back-filled foundation that is enclosed at the perimeter such that the manufactured home is not more than twelve (12) inches above grade;
- C. It has a pitched roof, with a slope of at least three (3) feet in height for each twelve (12) feet in width;
- D. It has exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings;
- E. It is certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels to the performance standards required of single-family dwellings constructed under the State building code;
- F. It has a garage or carport with exterior materials matching the residential unit; and
- G. It is not sited adjacent to any structure designated as a Historic Landmark.
- H. Front doors shall face streets excluding those homes obtaining access from a driveway.

NONCONFORMING DEVELOPMENT

10.7.100 PURPOSE

Within the zoning districts established by this Code, development that was lawful at the time it was established, but would be prohibited under the terms of this Code or future amendments may exist. As used in this section, nonconforming development includes nonconforming structures and nonconforming uses.

- A. A nonconforming structure is a structure that does not fully comply with the Code because of setbacks, building height, off-street parking, or with some other standard of the zone. A use shall be deemed to be discontinued or abandoned upon the occurrence of the first date of any of the following events:
1. When the structure and/or premises are vacated;
 2. The use ceases to be actively involved in the sale of merchandise or the provision of services;
 3. Termination of any lease or contract under which the non-conforming use has occupied the premises; or
 4. A request for final reading of water and power meters is made to the City Support Services Department.
- B. A nonconforming use is a use that is not permitted outright or has not received conditional approval in the zone, but was lawfully established prior to it becoming nonconforming.

The purposes of this section are:

- A. To permit nonconforming development do continue, but not to encourage its perpetuation; and
- B. To ultimately bring nonconforming development into compliance with this Code and the Comprehensive Plan.

10.7.105 APPLICABILITY

The nonconforming development regulations apply only to those nonconforming situations that were allowed when established or which were approved through a land use review. Additionally, they must have been maintained over time. These situations have legal nonconforming status. Nonconforming situations that were not allowed when established or have not been maintained over time have no legal right to continue and must be removed.

10.7.110 LOSS OF NONCONFORMING STATUS

- A. Discontinuance. If a nonconforming use is discontinued for more than one (1) year, the nonconforming rights are lost and the re-establishment of a nonconforming use is prohibited.
- B. Accidental Destruction. When a structure containing a nonconforming use is damaged by fire or other causes beyond the control of the owner, the reestablishment of the nonconforming use is prohibited if the repair cost of the structure is more than 60% of its assessed value.

10.7.115 ALTERATION OF A NONCONFORMING USE

- A. A nonconforming use shall not be expanded or moved to occupy a different or greater area of land, buildings, or structures than it occupied at the time it became nonconforming.
- B. Alteration of a nonconforming use shall not increase the nonconforming nature of the use or otherwise create increased impacts on surrounding properties.
- C. No building, structure, or land area devoted to a nonconforming use shall be enlarged, extended, moved, or structurally altered unless such development conforms to the provisions of this Code.
- D. Nothing in this section shall be construed to prohibit normal repair, maintenance, and nonstructural alterations to such development, nor the alteration, strengthening, or restoration to safe condition as may be required by law.

10.7.120 ALTERATION OF A NONCONFORMING STRUCTURE

Where the use of a structure is permitted by the zoning district but the structure is nonconforming, an alteration, expansion, enlargement, extension, reconstruction, or relocation may be approved through a Type II process if the following criteria are met:

- A. The proposed change, evaluated separately from the existing structure, would be in compliance with this Code;
- B. The area of improvement is not within a vision clearance area as determined by the City Engineer; and
- C. The change does not increase the nonconforming nature of the structure, or otherwise create increased impacts on surrounding properties.

10.7.125 EXCEPTIONS

The following exceptions to the nonconforming development regulations are allowed by this Code:

- A. Existing single-family dwellings and manufactured homes within an existing mobile home park in all commercial and industrial zones may be reconstructed or replaced within one (1) year after being removed or destroyed.

- B. Existing single-family dwellings in the Community Commercial Zone shall be allowed to enlarge or expand despite their nonconforming status. They may also be relocated within the Community Commercial Zone, but only to replace an existing single-family home, provided that the result is a net reduction of nonconforming uses.
- C. Existing multifamily dwellings in all residential and commercial zones may be reconstructed within one (1) year if destroyed by any cause not intended by the owner.
- D. Existing nonresidential structures in the Town Center zone districts may be reconstructed to the same height of the existing building within one (1) year.
- E. Any property use that was classified a non-conforming use under the Forest Grove Zoning Ordinance on December 2, 1982, shall be considered a permitted use.

SOLID WASTE AND RECYCLING STORAGE

10.7.200 PURPOSE

The purpose of this section is to ensure that certain new construction incorporates functional and adequate space for on-site storage and efficient collection of solid waste and recycling prior to pick up and removal by haulers. These standards shall apply to new multi-family residential buildings containing three (3) or more units and non-residential construction.

10.7.205 SIZE, LOCATION, DESIGN AND ACCESS STANDARDS FOR STORAGE AREAS

The applicant shall indicate the size and location of the storage area for solid waste and recycling on the site plan required for Site Development Review or Design Review.

A. Storage Area Size. The following guidelines shall be used to determine the appropriate size for the storage area:

1. Multi-family residential building with three to ten (3-10) units: fifty (50) square feet.
2. More than ten (10) units: fifty (50) square feet plus five (5) square feet for each unit above ten (10).
3. Office: four (4) square feet/1,000 square feet of gross floor area (GFA).
4. Retail: ten (10) square feet/1,000 square feet of GFA.
5. Wholesale/warehouse/manufacturing: six (6) square feet/1,000 square feet of GFA.
6. Educational/institutional: four (4) square feet/1,000 square feet of GFA.
7. Other: four (4) square feet/1,000 square feet of GFA.

B. Location Standards

1. To encourage its use, the storage area for recycling shall be co-located with the storage area for solid waste.
2. Indoor and outdoor storage areas shall comply with Building and Fire Code requirements.
3. Storage area space requirements can be satisfied with a single location or multiple locations, and combine both interior and exterior locations.
4. Exterior storage areas can be located within interior yard or rear yard areas. Exterior storage areas shall not be located within a required front yard setback or in a yard adjacent to a public or private street.

5. Exterior storage areas shall be located in central and visible locations on a site to enhance security for users.
6. Exterior storage areas can be located in a parking area, if the proposed use provides at least the minimum number of parking spaces required by this Code.
7. The storage area shall be accessible for collection vehicles and located so that the storage area will not obstruct pedestrian or vehicle traffic movement on the site or on public streets adjacent to the site.

C. Design Standards

1. The dimensions of the storage area shall accommodate containers consistent with current methods of local collection.
2. Storage containers shall meet Fire Code standards and be made and covered with waterproof materials or situated in a covered area.
3. A sight-obscuring fence, wall, or hedge at least six (6) feet in height shall enclose exterior storage areas. Gate openings, which allow access to users and haulers, shall be provided. Gate openings for haulers shall be a minimum of ten (10) feet wide and shall be capable of being secured in a closed and open position.
4. Storage area(s) and containers shall be clearly labeled to indicate the type of material accepted.

D. Access Standards

1. Access to storage areas can be limited for security reasons. However, the storage area shall be accessible to users at convenient times of the day, and to collection service personnel on the day and approximate time they are scheduled to provide collection service.
2. Storage areas shall be designed to be easily accessible to collection trucks and equipment, considering paving, grade, and vehicle access. A minimum of ten (10) feet horizontal clearance and eight (8) feet of vertical clearance is required if the storage area is covered.
3. Storage areas shall be accessible to collection vehicles without requiring backing out of a driveway onto a public street. If only a single access point is available to the storage area, adequate turning radius shall be provided to allow collection vehicles to safely exit the site in a forward motion.

WIRELESS COMMUNICATION FACILITIES

10.7.300 PURPOSE

This section provides siting standards and review criteria for wireless communications facilities locating within the City of Forest Grove or within the Urban Growth Boundary. The siting standards and review criteria are intended to:

- A. Regulate the placement, appearance, and number of wireless communication facilities.
- B. Ensure that the citizens of Forest Grove have access to a variety of wireless telecommunications systems and providers.
- C. Reduce the visual impact of certain wireless telecommunications facilities by encouraging co-location.
- D. Establish a graduated system of review that will expedite facilities placement in preferred location.
- E. Implement the applicable provisions of the Federal Telecommunications Act of 1996.

10.7.305 EXEMPTIONS

The following uses and activities are exempt from these regulations:

- A. Existing towers and antennas, and any repair or maintenance of these facilities which does not create a significant change in visual impact.
- B. Ham radio towers, citizen band transmitters and antennas.
- C. Microwave dishes.
- D. Antennas and associated equipment and other apparatus located completely within an existing structure.
- E. Federal, state and local government facilities used for emergency communications.

10.7.310 PROCEDURE

Table 6-1 describes the type of wireless communication facility and review procedure by zone. The placement, construction, and/or modification of wireless communication facilities are subject to review and approval as indicated below. The two options for review are a Type I administrative decision or a Type III conditional use permit. NP indicates that the type of antenna or support structure is not permitted in that zone at that height.

TABLE 7-1: WIRELESS FACILITY TYPES AND REVIEW PROCEDURES

ANTENNA OR SUPPORT STRUCTURE	ZONE				
	R	Inst	C	TC	I
Antenna attached to existing structures (i.e., buildings, towers, grain elevators, or other structures)	AA	AA	AA	AA	AA
Monopoles – maximum height of 35 feet	CU	AA	AA	CU	AA
Monopoles – 36 feet to 70 feet in height	NP	NP	CU	CU	AA
Monopoles – greater than 70 feet	NP	NP	CU	NP	AA

Footnotes:

- | | |
|---------------------------|---|
| R: Residential Zones | AA: Administrative Action – Type I Process |
| C: Commercial Zones | CU: Conditional Use Permit – Type III Process |
| TC: Town Center Zones | NP: Not Permitted |
| I: Industrial Zones | |
| Inst: Institutional Zones | |

10.7.315 HISTORIC DISTRICTS AND STRUCTURES

- A. Facilities greater than 35 feet in height. Wireless communication facilities greater than thirty-five (35) feet in height shall not be permitted within or adjacent to designated historic districts, nor on or adjacent to designated historic structures.

- B. Facilities less than 35 feet in height. Wireless communication facilities less than or equal to thirty-five (35) feet in height which are proposed to be placed within or adjacent to designated historic districts, or on or adjacent to designated historic structures shall be processed as follows:
 - 1. The application shall require approval of a conditional use permit.
 - 2. Prior to the Planning Commission hearing for the conditional use permit, the Historic Landmarks Board shall review the application and make a recommendation, with any conditions, to the Planning Commission.
 - 3. The recommendation of the Historic Landmarks Board shall be included in the staff report and shall become a part of the official record.

10.7.320 SUBMITTAL REQUIREMENTS

Applications for siting wireless communication facilities shall be accompanied by the following information as determined necessary by the Director at the pre-application conference:

- A. Existing Structures Analysis. An evaluation of the feasibility of either locating the facility on an existing building or structure, or co-locating the subject facility with other facilities on an existing monopole as an alternative to the requested permit. The existing structures analysis must include:

1. The location and ownership of existing telecommunications structures within the cell service area (not to exceed two (2) miles).
 2. Written verification and other documentation revealing the availability of existing sites/facilities/structures and/or cooperation shown by other providers to gain access to existing sites/facilities/structures which will meet the needs of the applicant.
 3. The tower type and height of potential co-location facilities and/or the height of other potential support structures.
 4. Where appropriate, the specific reasons why co-location is not feasible.
- B. Alternative Sites. Alternative site locations within 250 feet of the proposed site.
- C. Visual Impacts Analysis. An analysis of the visual impacts of the proposed facility on residential dwellings within 250 feet of the proposed site and an assessment of potential mitigation measures, including relocation.

10.7.325 REVIEW CRITERIA

The following review criteria shall be used to approve, approve with conditions, or deny applications for wireless communication facilities:

- A. Conditional Use Permit. All conditional use permit criteria have been met, if one is required.
- B. Co-location. Co-location on existing wireless communication facilities within the cell service area of the proposed site is not feasible.
- C. Future Use. If feasible, the wireless facility shall be located and designed to preserve the ability for co-location of at least one (1) additional user on all support structures exceeding thirty-five (35) feet in height.
- D. Visual Impacts. Based on the visual analysis and mitigation measures, the location and design of the facility shall minimize visual impacts using setbacks, color, camouflaging techniques, and landscaping as appropriate.
- E. Site Size. A new facility shall be sited on a parcel of a size and shape that complies with the following criteria.
1. Setbacks. The tower footprint shall be set back at least two-thirds (2/3) the tower height from any property line. This setback may be reduced when the applicant demonstrates all of the following as appropriate:
 - a. The shape or configuration of the parcel prevents compliance with the setback standard or that a reduction in setbacks is necessary to take advantage of screening opportunities (such as tall trees, tree groves, buildings or other tall elements) not available within the required setback.

- b. The reduction in setback is the minimum required to best camouflage the facility.
 - c. Adequate clearance between the facility and the property lines can be provided to accommodate landscaping and fencing.
 - d. The reduction in setback will not cause a greater visual impact to adjacent uses.
2. Tower Pad. The tower pad shall be sited in a location that permits additional expansion to accommodate future co-located ancillary facilities. The tower shall be located on the pad so as to provide maximum flexibility for future co-location. This standard shall not apply to antennas attached to existing structures or towers located on roof tops.
3. Engineering Analysis. A licensed structural engineer's analysis shall be submitted to demonstrate that the potential impact of tower failure and ice falling from the tower will be accommodated on site.
- F. Lighting. None allowed, except as required by the FAA.
- G. Fencing and Security. A six (6)-foot security fence shall enclose monopoles and ancillary facilities.
- H. Landscaping and Screening. Landscaping requirements shall be reviewed on a case by case basis to determine the amount of screening necessary for the particular site. In every case, landscaping shall be placed outside of any fencing and shall reasonably screen the facility by subject zoning district standards.
- I. Noise. Noise generating equipment shall be sound buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 45 dBA when adjacent to residential uses and 55 dBA in other areas.