

ORDINANCE NO. 179-2021

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE DONALD DEVELOPMENT ORDINANCE RELATED TO DEFINITIONS, FOOD CART PROCEDURES, DMU CIVIC SPACE, FENCES ALONG MAIN STREET, PORTABLE SIGNS, RESIDENTIAL DESIGN STANDARDS, PUBLIC NOTICING ON SITE, AND OTHER MINOR CODE CLEAN UP ITEMS.

WHEREAS, Oregon Revised Statutes (ORS) 197.175 requires each city and county to enact a comprehensive plan, together the zoning and land division ordinances needed to put the plan into effect; and

WHEREAS, Oregon Administrative Rules (OAR) 660-015-0000 Oregon's Statewide Planning Goals and Guidelines express the State's policies on land use and related topics, such as citizen involvement, housing, and natural resources; and

WHEREAS, the City of Donald posted and publicized a survey to solicit feedback from residents, developers, and business owners about the Donald Development Ordinance (DDO) between March and May of 2021; and

WHEREAS, the Donald Planning Commission held duly noticed work sessions to review possible amendments to the Donald Development Ordinance on April 22, 2021 and May 27, 2021 which were open to the public; and

WHEREAS, the Donald Planning Commission held a noticed public hearing on Planning File Legislative Amendment #LA-2021-01 on Thursday, June 24, 2021 during which the public was given full opportunity to be present and heard on the matter. During the public hearing, the Donald Planning Commission considered the information provided by staff in a staff report dated June 18, 2021, and the public. After deliberation, the Donald Planning Commission voted to recommend approval of the Draft Code Amendments, as amended by the Planning Commission, with a vote of 4-0-0; and

WHEREAS, the Donald City Council held a noticed public hearing on Planning File Legislative Amendment #LA-2021-01 on Tuesday, July 13, 2021, during which the public was given full opportunity to be present and heard on the matter. During the public hearing, the Donald City Council considered the information provided by staff in a staff report dated July 6, 2021, and the public. After deliberation, the Donald City Council voted to approve the Draft Code Amendments, as presented to the City Council, with a vote of 6-1-0; and

WHEREAS, during a second reading of Ordinance NO. 178-2021 on August 10, 2021, it was determined that the City Council desired to amend the Exhibit A proposed code amendments; and

WHEREAS, the City Council voted not to adopt Ordinance NO. 178-2021 on Tuesday, September 14, 2021 with a vote of ~~6-0-0~~; and

WHEREAS, the City Council conducted the first reading of Ordinance NO. 179-2021 on Tuesday, September 14, 2021, and the second reading on Wednesday, September 29, 2021.

NOW THEREFORE, THE CITY OF DONALD ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Donald does hereby adopt the staff report to the City Council dated July 6, 2021, including those certain findings of fact, conclusions, and supporting documentation as amended and included as Exhibit A attached hereto and by this reference made a part hereof.

Section 2. The City Council of the City of Donald does hereby amend the Donald Development Ordinance to include the amendments as shown in Exhibit A, with the following exception identified in Section 3.

Section 3. The City Council does not amend the DMU Zone Table 2.108 A. *Allowed Uses in the DMU Zone.* Marijuana dispensary or retail shall remain a special permitted use in the DMU Zone, subject to Section 2.407 as previously adopted.

Section 4. The first reading of Ordinance NO. 179-2021 was conducted on September 14, 2021. The second reading of this Ordinance was conducted on September 29, 2021 and was passed and adopted by the City Council on September 29, 2021 as follows:

7 AYES

0 NAYS

0 ABSTENTIONS

Section 5. This Ordinance shall be effective on the thirtieth day after the date of enactment below, as per City Charter, Chapter VIII, Section 36.

SIGNED and DATED this 29th day of September, 2021.

REDACTED FOR SECURITY
PURPOSES
REDACTED FOR SECURITY
PURPOSES
REDACTED FOR SECURITY
PURPOSES

Rick Olmsted, Mayor

ATTEST

REDACTED FOR
SECURITY PURPOSES
REDACTED FOR
SECURITY PURPOSES
SECURITY PURPOSES

Heidi Bell, City Manager

PASSED by the City Council: September 29, 2021

SIGNED by the Mayor: September 29, 2021

EFFECTIVE: October 29, 2021

**STAFF REPORT
TO THE DONALD CITY COUNCIL**

REPORT DATE: July 6, 2021

HEARING DATE: July 13, 2021

FILE NO.: Legislative Amendment #LA-2021-01

APPLICANT: City of Donald

SUMMARY: The City of Donald received grant funding to support a small package of code amendments to the Donald Development Ordinance. Minor amendments are proposed to the following code sections: Update definitions to match State's language. Reduce the amount of civic space required of new developments in the DMU zone. Remove marijuana retail/dispensary from the DMU zone, keep in C zone. Confirm sidewalks are required for all new dwelling units. Reduce fence height along Main Street. Minor revision to Residential Design Standards. Reduce conditional use permit requirement for food carts. Public notices to be posted to property. And other miscellaneous amendments for clarity and efficiency. No properties are proposed to be rezoned.

CRITERIA:

1. Donald Development Ordinance Section 3.112.03 Text Amendments
2. Donald Comprehensive Plan & Oregon Statewide Planning Goals & Guidelines

EXHIBITS: Exhibit A: Draft Code Amendments

I. PROCEDURE:

Pursuant to the Donald Development Ordinance (DDO) Section 3.101.04, an amendment to the Donald Development Ordinance is a Legislative Amendment, a Type IV Action in which the City considers and enacts or amends laws and policies. A Type IV action is initiated by City staff, Planning Commission, or City Council. Public notice and public hearings are provided before both the Planning Commission and City Council. The City Council will make the final decision. Appeals are to the Land Use Board of Appeals (LUBA).

II. PLANNING COMMISSION RECOMMENDATION TO CITY COUNCIL:

The Donald Planning Commission held a noticed public hearing on June 24, 2021, during which members of the public were invited to provide testimony. On that evening, the Planning Commission made several minor amendments to the code amendments package, and then voted 4-0-0 to recommend that the City Council approve and adopt the proposed Development Code Amendments of file #LA 2021-01, as attached in Exhibit A, and adopt the findings included in the staff report.

III. ANALYSIS OF APPLICABLE CRITERIA:

The full list of proposed amendments is found in Exhibit A. Criteria applicable to a legislative amendment are found in the Donald Development Ordinance, Donald Comprehensive Plan, and Statewide Planning Goals.

A. DONALD DEVELOPMENT ORDINANCE

3.112 TEXT AMENDMENTS

3.112.03 Criteria for Approval

Amendments to the Comprehensive Plan or Development Ordinance text shall be approved if the evidence can substantiate the following:

A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:

- 1. Traffic generation and circulation patterns;*
- 2. Demand for public facilities and services;*
- 3. Level of park and recreation facilities;*
- 4. Economic activities;*
- 5. Protection and use of natural resources;*
- 6. Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.*

FINDINGS: File # LA 2021-01 is a relatively small package of miscellaneous code amendments. The proposed amendments are not expected to adversely impact the community related to traffic, public facilities, recreation facilities, natural resources, etc. The proposed amendments are expected to have a positive impact on economic activities by supporting downtown development due to the reduced civic space requirement, lower fence heights along Main Street making for a more pedestrian-friendly setting, adding allowances for portable signs on the public sidewalk, and reducing procedural barriers to food carts in Donald. While dispensaries are being removed from the DMU zone, they are still permitted to be located in the General Commercial zone, so opportunities for that business type remain. The end goal is high-quality development in Donald. These criteria are met.

B. A demonstrated need exists for the product of the proposed amendment.

FINDINGS: The code amendments contained in this package resulted from a running list compiled over a couple years by staff, under the direction of the City Manager. This package integrates feedback from residents, businesses, the Planning Commission, and ultimately the City Council. This criterion is met.

C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

FINDINGS: The Statewide Planning Goals are addressed below. These criteria are met.

D. The amendment is appropriate as measured by at least one of the following criteria:

- 1. It corrects identified error(s) in the provisions of the plan.*
- 2. It represents a logical implementation of the plan.*
- 3. It is mandated by changes in federal, state, or local law.*
- 4. It is otherwise deemed by the council to be desirable, appropriate, and proper.*

FINDINGS: While the package of proposed code amendments in Exhibit A includes various unrelated components, one or more elements of the package 1) corrects identified errors in the plan, 2) represents a logical

implementation of the plan, and 4) is otherwise deemed by the Council to be desirable, appropriate, and proper. These criteria are met, and Legislative Amendment #LA 2021-01 is consistent with the Donald Development Ordinance Section 3.112 Text Amendments criteria.

B. DONALD COMPREHENSIVE PLAN & STATEWIDE PLANNING GOALS & GUIDELINES

The City of Donald adopted and acknowledged Comprehensive Plan is generally determined to be consistent with the Statewide Planning Goals. They are addressed concurrently below.

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: The City of Donald has maintained a list of desired code corrections and amendments since the adoption of the last code amendments in 2018. Upon the initiation of this Legislative Amendment, the City posted an online survey tool, which was also available in paper upon request. The purpose of the survey posted in March through May of 2021 was to collect feedback from the residents, businesses, and developers in Donald. Three surveys were submitted. The Donald Planning Commission held duly-noticed work sessions to discuss proposed code amendments in April and May of 2021. The two scheduled public hearings on this legislative amendment have been noticed through a Measure 56 direct mailing to the 28 property owners in the DMU – Downtown Mixed Use Zone, through a notice to the Department of Land Conservation and Development (DLCD), through a notice published in the Woodburn Independent newspaper, and through posted agendas on the City website and in town. If notice timelines are short of the requirement, the remedy is to continue a public hearing to a later date in order to allow more time if requested by members of the public. The public has multiple opportunities to engage in the code amendment discussion and to provide feedback to the Planning Commission and City Council before a decision is made. Goal 1 is met.

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 DDO Section 3.203.02 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 DDO Section 3.204.03. The public hearings before the Planning Commission and City Council are conducted in accordance with DDO Sections 3.205 and 3.206 respectively. Goal 2 is met.

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

FINDINGS: As the Donald Development Ordinance only applies to properties within the incorporated City Limits where urban densities, uses, and facilities are available and required, staff finds that this criterion 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 Donald Development Ordinance only applies to properties within the incorporated City Limits where urban densities, uses, and facilities are available and required, staff finds that this criterion 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: There is no evidence that the development code amendments proposed herein could impact natural resources, scenic and historic areas, or open spaces. Staff finds that this criterion 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: The City of Donald encourages developers to pursue sustainable development principles whenever possible. Staff finds no evidence that the development code amendments proposed herein could adversely impact air, water, and land resources quality. This criterion 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. This criterion 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. This criterion 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: As previously discussed, this code amendment package includes language intended to support new development in the Downtown Mixed Use district by reducing the amount of civic space required on private property with new development. The amendments remove marijuana dispensaries from the DMU, but retains them in the General Commercial Zone. The package also streamlines the process for operating a food cart in Donald by eliminating the requirement for a Conditional Use Permit on an annual basis. Downtown business are also supported through the allowance of portable (sandwich board) signs on the public sidewalk, when sufficient pedestrian width is maintained. Goal 9 is supported by the proposed amendments.

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

FINDINGS: This code amendment package includes a couple items related to housing provision in the city of Donald, specifically this package:

- Adds a vision statement to the Residential Design Standards section to help home builders understand vision of the existing standards.
- Relaxes existing Residential Design Standards checklist ("pick 5 of 17 options") by reducing the size of solar panels required to qualify, and by removing "workable" from shutters to qualify.

- Confirms Residential Design Standards apply to both stick-built and manufactured dwellings, because this was not specified in the existing code language. Among the list of 17 options are several that can be accomplished without a huge investment, so as to encourage quality development without applying a large burden on the development of new and replacement homes. This requirement is proposed to apply to duplexes as well.
- Confirms that a sidewalk is required with the development of a new/infill/replacement home, but not for ADU construction. The Donald City Council and Planning Commission strongly support safe walkable neighborhoods for a healthy community, and sidewalks are a critical component of that vision.
- Requires a shared maintenance agreement recorded for attached homes (townhomes) to encourage long term maintenance of local housing.
- Resolves conflicting or confusing language about the review procedures for Planned Unit Developments (PUD). It is a Type II review (Planning Commission decision) rather than Type III (City Council decision).

Goal 10 is supported through code language which supports high-quality residential development in Donald.

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 amendments do not impact Goal 11 public facilities beyond confirming the required provision of sidewalks with new residential development, as previously discussed.

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

FINDINGS: The proposed amendments do not impact Goal 11 public facilities beyond confirming the required provision of sidewalks with new residential development, as previously discussed.

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: The City of Donald encourages developers to pursue sustainable development principles whenever possible, which includes energy conservation goals. This criterion 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 finds that this criterion 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) STAFF

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

IV. CITY COUNCIL ACTION OPTIONS:

The City Council may take one of the following actions:

- A. Motion to APPROVE the Development Code Amendments package, referenced as file #LA-2021-01, AS PRESENTED, adopt the findings included in the staff report, and direct staff to present an enacting ordinance.
- B. Motion to APPROVE the Development Code Amendments package, referenced as file #LA-2021-01, AS REVISED BY THE CITY COUNCIL, adopt the findings included in the staff report, and direct staff to present an enacting ordinance.
- C. Motion to CONTINUE the public hearing to a date and time certain, and state the additional information desired.
- D. Motion to DENY the proposed Development Code Amendment, #LA-2021-01, stating the reason for denial.

**EXHIBIT A
PROPOSED AMENDMENTS TO THE DONALD DEVELOPMENT ORDINANCE**

Note: In the following red line track changes formatting, underlined text is proposed to be added, text with ~~strike through~~ is proposed to be deleted.

| PROPOSED CODE AMENDMENTS |
|---|
| <p>...</p> <p><i>Subchapter 2.4: Supplemental Standards for Special Uses</i></p> <p>2.401 General provisions</p> <p>2.402 Manufactured homes</p> <p>2.403 Manufactured home parks</p> <p>2.404 Home occupations</p> <p>2.405 Used merchandise stores</p> <p>2.406 Bed and breakfast</p> <p>2.407 Medical marijuana dispensary and commercial marijuana retail store</p> <p>2.408 Marijuana production, grow site or processing, or testing laboratory site</p> <p>2.409 Food carts</p> <p>2.410 Ground floor residential in the DMU Zone</p> <p>...</p> |
| <p>§ 1.200 DEFINITIONS.</p> <p>CHURCH. A permanently located building primarily used for religious worship, including accessory buildings for related religious activities and a residence. See PLACE OF WORSHIP.</p> <p><u>CHURCH. A permanently located building primarily used for religious worship, including accessory buildings for related religious activities and a residence. See PLACE OF WORSHIP.</u></p> <p>CHILD CARE. The care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, legal guardian or custodian, during a part of the 24 hours of the day, with or without compensation.</p> <p><u>CHILD CARE. The care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, legal guardian or custodian, during a part of the 24 hours of the day, with or without compensation.</u></p> <p>CHILD CARE FACILITY. Any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before or after school care, daycare, or child development center.</p> <p><u>CHILD CARE FACILITY. Any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before or after school care, daycare, or child development center.</u></p> <p><u>1. Registered Family Home. A facility in the provider’s own home in which up to 10 children receive child care. The provider’s own children are included in the number of children in care.</u></p> |

2. Certified Family Child Care Home. A facility in a building constructed as a single family dwelling in which up to 16 children receive child care. The provider’s own children are included in the number of children in care.

3. Child Care Center. A facility, usually located in a commercial building, in which children receive care. The number of children allowed depends on the physical size of the facility and the number of qualified staff members.

~~DAY CARE FACILITY. An establishment, not a part of a public school system, in which are commonly received three or more children, not of common parentage, under the age of 14 years, for a period not exceeding 12 hours per day for the purpose of being given care apart from their parents or guardians. See CHILD CARE FACILITY.~~

~~FAMILY DAY CARE PROVIDER. A day care provider who regularly provides child care in the family living quarters of the home of the provider. See CHILD CARE FACILITY.~~

~~MARIJUANA GROW SITE. A facility lawfully registered with the State of Oregon at which marijuana leaves or flowers are manufactured, planted, cultivated, grown, trimmed, harvested, or dried.~~

~~MARIJUANA PROCESSING SITE. A facility registered with the State of Oregon at which marijuana is processed, compounded or converted into products, concentrates or extracts.~~

~~MEDICAL MARIJUANA DISPENSARY OR COMMERCIAL MARIJUANA RETAILER. A facility authorized and/or registered with the State of Oregon, the State of Oregon Health Authority (OHA) or Oregon Liquor Control Commission (OLCC) as applicable, that dispenses marijuana, marijuana products, concentrates or extracts, or transfers usable marijuana and immature plants to and from cardholders, retail customers, or persons authorized by the State of Oregon to purchase, grow or process marijuana or marijuana products.~~

MARIJUANA-RELATED USES.

1. Marijuana Processor. Facility for processing, compounding, or converting marijuana into products, concentrates, or extracts that is registered by the Oregon Health Authority or licensed by the Oregon Liquor and Cannabis Commission.

2. Marijuana Producer. Facility for planting, cultivating, growing, trimming, harvesting, or drying of marijuana provided that the marijuana producer is registered by the Oregon Health Authority to produce marijuana for use by a registry identification cardholder or licensed by the Oregon Liquor and Cannabis Commission.

3. Marijuana Testing Laboratory. Facility for testing of marijuana items that is licensed by the Oregon Liquor and Cannabis Commission.

4. Marijuana Retailer. Facility for sale of marijuana items to a consumer that is licensed by the Oregon

Liquor and Cannabis Commission. Also, location of a medical marijuana dispensary that is registered by the Oregon Health Authority.

5. Marijuana Wholesaler. Facility for resale of marijuana items to a person other than a consumer that is licensed by the Oregon Liquor and Cannabis Commission.

6. Industrial Hemp. Activities related to extraction or processing of industrial hemp, as permitted and regulated by the Oregon Department of Agriculture (ODA) are excluded from this definition, consistent with the Oregon Revised Statutes. Industrial hemp is an agricultural product.

PLACE OF WORSHIP. A church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of including activities customarily associated with the practices of religious activity, including worship services, religion classes, weddings, funerals, meal programs, limited housing (consistent with ORS 215.441), and childcare but not including private or parochial school education for prekindergarten through grade 12 or higher education.

§ 2.103 SINGLE-FAMILY RESIDENTIAL 7,000 SQUARE FOOT (R-7).

2.103.02 *Permitted uses.* The following uses, when developed under the applicable development standards in the Development Ordinance, are permitted in the R-7 Zone:

- A. One detached single-family dwelling on a separate lot or parcel.
- B. One two-family dwelling (duplex) on a separate lot or parcel.
- C. Residential homes and facilities.
- D. ~~Child day-care service, including in a family homeday care provider,~~ for 102 or fewer children.

2.103.03 *Special permitted uses.* The following uses, when developed under the applicable standards in the Development Ordinance and special development requirements, are permitted in the R-7 Zone:

- A. Accessory structure(s) and use(s) prescribed in § 2.203 and subject to the provisions in § 2.309.
- B. Accessory dwelling unit subject to the provisions in § 2.309.02.
- C. The following uses, subject to the applicable standards in § 2.4:
 - 1. Manufactured homes on individual lots (§ 2.402)
 - 2. Manufactured home parks (§ 2.403).
 - 3. Home occupations (§ 2.404).

2.103.04 *Conditional uses.* The following uses require approval of a conditional use permit:

- A. Elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. ~~Child day-care services~~ for 113 or more children.
- D. ~~Churches~~Place of worship.
- E. Bed and breakfast, limited to two units per property, with one on-site parking space provided per unit, and occupied by the owner of the property (§ 2.406).

§ 2.104 MULTIPLE FAMILY RESIDENTIAL (RM).

2.104.02 *Permitted uses.* The following uses, when developed under the applicable development standards in the Development Ordinance, are permitted in the RM Zone:

- A. Residential buildings containing two or more dwelling units.
- B. Residential homes and facilities.
- C. Child day-care service, including a family home day-care provider, for 102 or fewer children.
- D. Single-family attached dwellings.

2.104.03 *Special permitted uses.* The following uses, when developed under the applicable standards in the Development Ordinance and special development requirements, are permitted in the RM Zone:

- A. Accessory structures and uses prescribed in § 2.203 and subject to the provisions in § 2.309.
- B. The following uses subject to the applicable standards in § 2.4:
 - 1. Manufactured home parks (§ 2.403).
 - 2. Home occupations (§ 2.404).

2.104.04 *Conditional uses.* The following uses require a conditional use permit:

- A. Schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day-care service for 113 or more children.
- D. Churches Place of worship.

§ 2.105 COMMERCIAL (C).

2.105.02 *Permitted uses.* The following uses, when developed under the applicable development standards in the Zoning Ordinance, are permitted in the C Zone:

- A. Pre-schools and nurseries child care centers, and kindergartens.

§ 2.106 INDUSTRIAL (I).

2.106.04 *Conditional uses.* The following uses shall require a conditional use permit:

- A. Petroleum products storage and distribution.
- B. Chemical manufacturing including agricultural chemicals, fertilizers and insecticides.
- C. Auction yard.
- D. Marijuana grow site producer, marijuana processor, and/or marijuana testing laboratory marijuana processing sites, subject to § 2.408.

§ 2.108 DOWNTOWN MIXED USE (DMU).

Table 2.108.A: Allowed Uses in the DMU Zone

| | | |
|--------------------------------|----|---------------|
| Marijuana dispensary or retail | SP | Section 2.407 |
|--------------------------------|----|---------------|

...

2.108.03 Development standards.

J. Civic space requirements. At least ~~23~~23% of the gross area of the subject lot shall be designated and improved as civic space (plaza, landscaped courtyard, or similar space) that is accessible to the public, pursuant to the following:

1. Civic spaces shall abut a public right-of-way or otherwise be connected to and visible from a public right-of-way by a sidewalk or pedestrian accessway.

2. Where public access to a civic space is not practical due to existing development patterns, physical site constraints, or other hardship presented by the applicant, the City may allow a private area, such as an outdoor eating area attached to a restaurant, in finding the project complies with the standard.

3. All civic spaces shall have dimensions that allow for reasonable pedestrian access. For example, by extending the width of an existing sidewalk by four feet, a developer might provide space for an outdoor eating area; whereas a larger development at a street corner could meet the standard by creating a plaza adjacent to a building entrance.

4. All civic spaces will be improved with at least one pedestrian amenity from the following list:

- a. Plaza surfaces (e.g., pavers, landscaping).
- b. Sidewalk extensions.
- c. Street furnishings (e.g., benches, public art, planter with seat wall, informational kiosk, sheltered seating area).
- d. Way-finding signage.
- e. Similar amenity as approved by the City.

2.202.03 Public dedications.

Setback restrictions of this Development Ordinance shall not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures shall be allowed subject to § ~~2.202.03~~2.204.04.

2.301.03 Application of public facility standards. Standards for the provision and utilization of Public facilities or services available within the City of Donald shall apply to all land developments in accordance with the following table of reference. No development permit, including building permit, shall be approved or issued unless the following improvements are provided prior to recording the final plat. Alternatively, a building permit may be issued without Public facilities in the following cases:

A. Construction of public improvements is guaranteed through a performance bond or other instrument acceptable to the City Attorney;

B. The improvement is specifically waived by the Public Works Department due to existing improvements or circumstances within the area; or

C. Future provision is assured in accordance with § ~~3-202-01~~ 3.102.03 Financial Assurances.

~~C-2. Street improvements for single-family dwellings: new single-family dwellings which require a street extension must provide street improvements complying with the Donald Public Works Design and Construction Standards; otherwise, street improvements are not required.~~

| PUBLIC FACILITIES IMPROVEMENT REQUIREMENTS TABLE | | | | | |
|--|--------------|--------------------|--------------|--------------|-------------|
| Land use | Fire hydrant | Street improvement | Water hookup | Sewer hookup | Storm drain |
| SFD/Duplex | No | C-2 | Yes | Yes | Yes |
| MFD | Yes | Yes | Yes | Yes | Yes |
| New Public, Commercial or Industrial | Yes | Yes | Yes | Yes | Yes |
| Public, Commercial or Industrial Expansion | C-1 | C-3 | Yes | Yes | Yes |
| Partition, Subdivision, MHP | Yes | Yes | Yes | Yes | Yes |

Legend:
 No = Not required; Yes = Required
 C = Conditional, as noted:

C-1. *Fire hydrants for commercial or industrial expansions.* One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500 square feet, or the proposed use is classified as Hazardous (H) in the Uniform Building Code or Uniform Fire Code.

C-2. *Street improvements for single-family dwellings.* New single-family dwellings which require a street extension must provide street improvements to City street standards; otherwise, street improvements are not required.

C-3. *Street improvements for commercial or industrial expansions.* Street access permits must obtain access permits from the Marion County Public Works Department.

MFD = Multi-family dwelling (three or more units)
 MHP = Manufactured home park
 SFD = Single-family dwelling

C-2. Street improvements for single-family dwellings. New single-family dwellings which require a street extension must provide street improvements to City street standards; otherwise, street improvements are not required. Construction of frontage sidewalks to City standards shall be required with the construction of one or more new, replacement, or infill dwelling unit(s) of any construction type. Sidewalks are required on both frontages of corner lots. Sidewalks shall not be required with the development of an accessory dwelling unit (ADU).

2.303.06 Off-street vehicle parking requirements.

A. *Number of spaces.* Off-street parking shall be provided in the amount not less than listed on the following chart.

B. *Maximum number of spaces.* The number of minimum required parking spaces shall not be increased by more than 50%.

| <i>Land use activity</i> | <i>Spaces</i> | <i>How measured*</i> |
|--|----------------------|---|
| Churches, Place of worship, auditorium, stadium, theater | 1 | Per 4 seats or every 8 feet of bench length |

§ 2.306 SITE AND LANDSCAPING DESIGN.

2.306.01 Purpose.

...

D. *Water conservation.* The City encourages xeriscape, or water conservation principles, in meeting the requirements of this section. Xeriscape principles include the use of mulches, native and adapted lower water-demand plants, limited turf areas, and efficient watering methods resulting in significantly lower water-use and decreased maintenance.

...

2.306.03 General provisions.

A. *Landscaped area.* A "landscaped area" must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or desirable native vegetation, or be used for other landscape elements, provided a minimum of 30% of the landscaped area is in vegetative cover. The remaining 70% may be covered with unvegetated areas of bark chips, rock, stone, or water features. Maintained vegetated swales (bioswales) and/or vegetated filter strips may be counted toward minimum vegetated area, when constructed to Public Works Standards. Stormwater detention ponds (dry ponds) may be counted toward unvegetated areas.

...

2.308.06 Side yard projections.

A. *Building features.* Cornices, eaves, gutters, ~~and~~ fire escapes, and window-mounted air conditioning units, when not prohibitive by any other code or ordinance, may project into a required side yard not more than one-third of the width of the side yard, nor more than four feet in any case.

B. *Architectural features.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project up to one and a half feet into a required side yard, provided, however, chimneys and flues shall not exceed six feet in width.

C. Decks and patios. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line when they are three feet or less in height from ground level. This section includes air conditioning condensers on concrete pads, where permitted by applicable building code.

2.308.07 Rear yard projections.

A. Architectural features. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project up to one and one half feet into a required rear yard, provided, however, chimneys and flues shall not exceed six feet in width.

B. Building features. A fire escape, balcony, outside stairway, cornice, window-mounted air conditioning unit, or other unenclosed, unroofed projections may project not more than five feet into a required rear yard and set back at least six feet from any property line.

C. Steps and porches. Planter boxes, steps, uncovered porches, covered but unenclosed porches, including covered patios when not more than one story high, which are not more than four feet above grade, are exempt from the minimum rear yard depth requirements.

D. Setbacks. No permitted projection into a required rear yard shall extend within ten feet of the center line of an alley or of a rear lot line if no alley exists.

E. Decks and patios. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are three feet or less in height from ground level. This section includes air conditioning condensers on concrete pads, where permitted by applicable building code.

2.308.09 Fences, walls, and hedges.

A. Residential, public and semi-public uses.

1. Height, location. Fences, walls, and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear vision area. A fence, wall, or hedge may not exceed six feet in height without approval of a variance. Fences, ~~and~~ walls, and hedges shall not exceed a height of four feet when located along, or ~~and~~ within, ten feet of any property line adjacent to the street and containing a street access. Fences, walls, and hedges shall not exceed a height of four feet when located along or within ten feet of the Main Street right-of-way. Fences and walls may be subject to a building permit aApplication, in compliance with Oregon State Building Code standards.

2. Construction material. Fences or walls constructed of unsafe materials, including, but not limited to barbed wire, electric fencing, broken glass, and spikes shall be prohibited.

3. Swimming pool requirements. Swimming pools and spas shall be enclosed by a locking fence in compliance with all applicable Oregon State Building Code standards. ~~of six feet in height. The dwelling may be used to meet part of the enclosure requirement.~~

4. An entrance wall to a subdivision or other residential development shall be permitted provided the wall or gate does not exceed six feet in height nor violate provisions of the clear vision area.

B. Commercial and industrial uses.

1. Height, location. Fences, walls, and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear vision area. A fence, wall, or hedge may not exceed 12 feet in height without approval of a variance. Fences and walls may be subject to a building permit Application, in compliance with Oregon State Building Code standards. Fences and walls shall not exceed a height of four feet when located along and within ten feet of the Main Street right-of-way.

2. Construction material. Electric and barbed wire fencing shall be permitted in the C, I, EI and P Zones. Barbed wire fencing shall be angled inward.

§ 2.309 ACCESSORY STRUCTURES.

2.309.02 Accessory dwelling unit in the R-7 Zone subject to the following criteria:

A. One Accessory Dwelling Unit (ADU) is allowed per legal single-family detached dwelling. The ADU may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or conversion of an existing floor);

B. Floor Area.

1. A detached ADU shall not exceed 800 square feet of floor area, or 75% of the primary dwelling's floor area, whichever is smaller.

2. An attached or interior ADU shall not exceed 800 square feet of floor area, or 75 percent of the primary dwelling's floor area, whichever is smaller. However, ADUs that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the ADU would be more than 800 square feet.

C. Other development standards. ADUs shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

1. Conversion of an existing legal non-conforming structure to an ADU is allowed, provided that the conversion does not increase the non-conformity.

2. No off-street parking is required for an ADU, unless required per division 5. below.

- 3. Detached, stand-alone ADUs shall contain at least two detailed design elements from the list in § 2.312.03.D.
- 4. ADUs shall not count toward the minimum or maximum density standards for the underlying Zone.
- 5. ADUs shall have access from a public street. Access from a private access easement may be allowed if off-street parking is provided for the ADU (one off-street parking space per ADU) and the fire marshal approves the private access.
- 6. Conversion of an existing garage or carport to an ADU may be permitted, contingent upon the primary dwelling continuing to satisfy the off-street parking standards through provision of at least one other garage or carport parking space.

D. The ADU shall meet all technical code standards including building, electrical, fire, plumbing, and other applicable requirements.

§ 2.310 SIGNS.

2.310.06 Residential signs. The following regulations apply to signs for residential uses:

A. Maximum number. Any combination of wall, canopy or freestanding signs not exceeding the sign area and height limitations of this section.

B. Maximum total sign area for property on which the building or buildings are located:

- 1. Single-family and two-family (duplex) dwelling - six square feet provided total sign area on a freestanding sign shall be limited to a maximum of four square feet.
- 2. Multiple family dwelling - 24 square feet provided total sign area on a freestanding sign shall be limited to a maximum of 18 square feet.
- 3. Neighborhood/PUD name entrance signs – 24 square feet sign area per sign. One sign shall be allowed for each entrance street into the neighborhood development.

C. Maximum sign height.

- 1. Wall or canopy sign - four feet.
- 2. Freestanding sign - four feet.

D. Location.

- 1. Wall, canopy or window sign shall be set back from the property lines of the lot on which it is located the same distance as the building containing the permitted use. A sign flush with the fence (not a projecting sign) shall meet the standards for fences.
- 2. Freestanding sign shall be placed where fences are allowed.

E. Illumination. Signs may only be indirectly illuminated and shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

...

2.310.07 Commercial and industrial signs.

E. Portable sign. In addition to signs permitted under this section, each business may display a portable sign. The sign shall be limited to a maximum height of five feet, with a maximum sign area of ten square feet. ~~The sign shall be located entirely on private property and shall be displayed only during business hours.~~ Portable signs located on sidewalks within the public right-of-way shall maintain a minimum four-foot wide pedestrian access in consideration of other sidewalk obstructions including posts, signs, street lights, fire hydrants, bicycle racks, planters, trees, benches, waste receptacles, etc.

§ 2.312 RESIDENTIAL DESIGN STANDARDS.

2.312.01 Purpose. The following standards are intended to create walkable residential neighborhoods that are visually interesting, compatible with existing development, and avoid monotony in design. The vision for the following standards is described as old time friendly small town rural neighborhoods defined by porches rather than garages.

2.312.02 Applicability. The standards in this section apply to all new and replacement single-family attached, ~~single-family~~ and detached, and duplex dwelling units, unless otherwise indicated per the subsections below. The following standards apply to all home construction types. Compliance with these standards will be assessed during the Building Permit process.

2.312.03 Standards for single-family dwellings.

A. Main entrance. At least one main entrance must meet the following standards.

- 1. Be no further than eight feet behind the longest street-facing wall of the primary building.*
- 2. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens onto a porch, the porch must meet the following additional standards.*
 - a. Be at least 25 square feet in area with a minimum four-foot depth.*
 - b. Have at least one porch entry facing the street.*
 - c. Have a roof that is no more than 12 feet above the floor of the porch.*
 - d. Have a roof that covers at least 30% of the porch area.*

B. Limitation on parking. Off-street parking is not allowed within the front yard of a dwelling except within a designated driveway.

C. Garages. Where one or more garages face a street, the following standards apply:

- 1. The front elevation of the garage(s) may not extend more than five feet in front of the longest, street-facing, living-space wall of the primary dwelling.*
- 2. The width of all garages on the street-facing elevation shall not exceed 50% of the total width of that elevation. The width of the garage shall be measured from the edges of the finished exterior garage wall. The following exception applies:*
 - a. The width of garage(s) may be increased up to 60% if the garage(s) are recessed behind the longest, street-facing, living-space wall of the dwelling by at least five feet.*

D. Detailed design. All dwellings shall incorporate at least five of the features listed below on the street-facing façade:

- 1. Covered porch at least five feet deep, as measured horizontally from the face of the main building façade to the edge of the porch, and at least five feet wide.*
- 2. Recessed entry area at least two feet deep, as measured horizontally from the face of the main building façade, and at least five feet wide.*
- 3. Offset on the building face of at least 16 inches from one exterior wall surface to the other.*
- 4. Dormer that is at least four feet wide and integrated into the roof form.*
- 5. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.*
- 6. Roof line offsets of at least two feet from the top surface of one roof to the top surface of the other.*
- 7. Tile shingle roofs.*
- 8. Horizontal lap siding between three to seven inches wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.*
- 9. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.*
- 10. Gable roof, hip roof, or gambrel roof design.*
- 11. Window trim around all windows at least three inches wide and five-eighths inches deep.*
- 12. Window recesses, in all windows, of at least three inches as measured horizontally from the face of the building façade.*
- 13. Balcony that is at least three feet deep, five feet wide, and accessible from an interior room.*
- 14. Bay window at least two feet deep and five feet long.*
- 15. Attached garage width, as measured between the edges of the exterior finished garage wall, of 30% or less of the total width of that elevation.*
- 16. Permanent solar rooftop panels covering at least 100 square feet 60% of the roof area.*
- 17. ~~Workable~~ Shutters on ground floor windows.*

E. House plan variety. This standard applies to single-family detached dwellings. Single-family attached dwellings are exempt from this house plan variety standard. No two directly adjacent or opposite dwellings in a single-family detached development of more than four units may have the same front or street-facing elevation. This standard is met when front or street-facing elevations differ from one another by at least three of the elements listed in divisions 1. through 6. below. Where facades repeat on the same block face, they must have at least three intervening lots between them that meet this standard.

1. Materials. The plans specify different exterior cladding materials, a different combination of materials, or different dimensions, spacing, or arrangement of the same materials. This standard does not require or prohibit any combination of materials; it only requires that plans not repeat or mirror one another. Materials used on the front facade must turn the corner and extend at least two feet deep onto the side elevations.

2. Articulation. The plans have different offsets, recesses, or projections; or the front building elevations break in different places. For example, a plan that has a stoop entry (recess) varies from one that has

an entry under a front porch (projection). For this standard to apply, a recess must have a minimum depth of four feet and a projection or offset must be at least four feet in depth.

3. Variation in roof elevation. The plans have different roof forms (e.g., gable versus gambrel or hip), different roof height (by at least 10%), different orientation (e.g., front-facing versus side-facing gable), or different roof projections (e.g., with and without dormer or shed, or different type of dormer or shed).

4. Entry or porch. The plans have different configuration or detailing of the front porch or covered entrance.

5. Fenestration. The plans have different placement, shape, or orientation of windows or different placement of doors.

6. Height. The elevation of the primary roofline (along the axis of the longest roofline) changes by not less than four feet from building to building, or from dwelling unit to dwelling unit (e.g., townhome units), as applicable. Changes in grade of eight feet or more from one lot to the adjacent lot are counted toward change in height for purposes of evaluating facade variation.

F. ~~Number of~~ Single-family attached dwellings. No more than four consecutive attached dwellings that share a common wall are allowed. A set of four attached dwellings is allowed to be adjacent to a separate set of four attached dwellings. Attached dwelling units shall have a recorded shared maintenance agreement for common features including but not limited to common walls, roof, exterior walls, siding, fencing, and exterior paint.

§ 2.402 MANUFACTURED HOMES.

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

A. Construction date. The manufactured home shall have been manufactured after June 15, 1976, and exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards.

B. Minimum area. The manufactured home shall be multi-sectional with a minimum area of 1,000 square feet of livable area.

C. Foundation. The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with either concrete, concrete block, brick, stone, pressure treated wood, or combination thereof. No more than 18 inches of the enclosing material may be exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the downhill side of the home. If the manufactured home is placed on a basement the 18-inch and/or 24 inch limitation shall not apply.

D. Roof. The manufactured home roof shall have a nominal pitch of three feet for each 12 feet in width.

E. Exterior material. The manufactured home shall have an exterior that is residential in appearance.

F. Garage. The manufactured home shall have a garage with exterior material that is residential in appearance, or, a carport with a concrete parking surface. The garage or carport shall be placed on the property within 60 days of occupancy of the manufactured home. All garages or carports shall contain a minimum of 240 square feet of area. Garages and/or carports shall be constructed to include a roof pitch similar to the primary dwelling(s), and shall be constructed to include exterior siding and paint to match the primary dwelling(s).

G. Energy efficiency. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the Oregon Building Code, as defined in ORS 455.010.

H. Lot development standards. The manufactured home shall meet all applicable development standards, such as setbacks and height limitations, in the Donald Zoning Ordinance.

I. Equipment removal. The tongue, axles, wheels and traveling lights shall be removed from the manufactured home.

J. Design Standards. The manufactured home shall meet residential design standards as detailed in Section 2.312 Residential Design Standards.

§ 2.403 MANUFACTURED HOME PARKS.

2.403.01 General requirements.

A. Minimum area. The minimum area for a manufactured home park shall be three acres.

B. Density. The number of manufactured home spaces shall comply with the density regulations of the underlying Zone.

2.403.02 Design standards. Manufactured home parks are subject to the minimum standards and conditions set forth in this section. Individual manufactured homes shall comply with Section 2.312 Residential Design Standards.

...

§ 2.404 HOME OCCUPATIONS.

...

L. ~~Registration License~~ required. Prior to the commencement of the home occupation, the operator of a home occupation shall ~~obtain a license from~~ register the business with the City of Donald, subject to all applicable forms, fees, and procedures.

§ 2.407 MEDICAL MARIJUANA DISPENSARY AND COMMERCIAL MARIJUANA RETAIL STORE.

Where permitted as a special use, ~~medical-marijuana~~ retail dispensaries shall meet the following use and development standards:

A. Buffers.

1. As regulated by the Oregon Health Authority (OHA) and/or Oregon Liquor and Cannabis Control Commission (OLCC). Business owner/applicant shall provide the City a current copy of all necessary OHA and/or OLCC permits.

2. May not abut a Residential Zone, a public Zone, or a place of worships~~church~~. "Abut" for this section shall include properties directly across a public-right-of-way from a Residential Zone, a public Zone, or a place of worships~~church~~.

B. Use. The use must be located within a permanent, enclosed structure.

C. Hours of operation. Shall be limited to between the hours of 8:00 a.m. to 7:00 p.m.

D. Drive through windows are prohibited.

E. Shall be subject to a conditional use permit approval (§ 3.107).

§ 2.408 MARIJUANA ~~GROW-SITE~~PRODUCTION, OR PROCESSING, OR TESTING LABORATORY SITE.

Where permitted as a conditional use, marijuana production, grow or processing, or testing laboratory sites shall meet the following use and development standards.

A. Buffers.

1. As regulated by the Oregon Health Authority (OHA) and/or Oregon Liquor and Cannabis Control Commission (OLCC). Business owner/applicant shall provide the City a current copy of all necessary OHA and/or OLCC permits.

2. May not abut a Residential Zone, a public Zone, or a place of worships~~church~~. "Abut" for this section shall include properties directly across a public-right-of-way from a Residential Zone, a public Zone, or a place of worships~~church~~.

B. Use. The use must be located within a permanent, enclosed structure.

C. Drive through windows are prohibited.

D. Shall be subject to a conditional use permit approval (§ 3.107).

§ 2.409 FOOD CARTS.

...

D. Permits.

1. Shall be subject to a conditional use permit approval (§ 3.107).
2. Shall be subject to business ~~registration~~license approval for each proposed cart.
3. Must be exercised within one year of approval of a City of Donald conditional use permit and business ~~registration~~license, and shall be valid without time limit, contingent upon continued compliance with the food cart standards and City Municipal Code. Violators will be processed under the Municipal Code, and may be subject to revocation of conditional use permit. Revoked food cart operators may reapply for conditional use permit approval, subject to the review criteria of Section 3.107, for one year from initial operation.
4. The operator of the food cart shall obtain all applicable State of Oregon and Marion County permits, ~~and current copies of all permits shall be submitted to the City of Donald.~~

§ 3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES.

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

...

3.101.02 Type II Actions. 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. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Site ~~plan~~ development review.
- B. Conditional use.
- C. Major variance.
- D. Subdivision.
- E. Planned unit development (PUD).

3.101.03 Type III Actions. A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. § 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Comprehensive Plan map amendments (involving five or fewer adjacent land ownerships).
- B. Zone changes (involving five or fewer adjacent land ownerships).

| <i>Land Use Application Process</i> | | | | |
|--|-------------|------------------------------|----------------------------|-------------------------------|
| <i>Land Use Action</i> | <i>Type</i> | <i>Staff</i> | <i>Planning Commission</i> | <i>City Council</i> |
| Minor Variance | I | Final Decision | Appeal of Staff Decision | Appeal of Commission Decision |
| Lot Line Adjustment | I | Final Decision | Appeal of Staff Decision | Appeal of Commission Decision |
| Partition (1) | I | Final Decision | Appeal of Staff Decision | Appeal of Commission Decision |
| Site Plan Review | II | Recommendation to Commission | Final Decision | Appeal of Commission Decision |
| Conditional Use | II | Recommendation to Commission | Final Decision | Appeal of Commission Decision |
| Major Variance | II | Recommendation to Commission | Final Decision | Appeal of Commission Decision |
| Subdivision (1) | II | Recommendation to Commission | Final Decision | Appeal of Commission Decision |
| Comprehensive Plan Map Amendment (2) | III | Recommendation to Commission | Recommendation to Council | Final Decision |
| Zone Change (2) | III | Recommendation to Commission | Recommendation to Council | Final Decision |
| Text Amendments; Legislative Zone and Plan Map Changes | IV | Recommendation to Commission | Recommendation to Council | Final Decision |

(1) Land divisions may use the expedited review process outlined in the applicable section.

(2) Involving five or fewer adjacent land ownerships.

Note: In table above, change Site Plan Review to Site Development Review. And add Planned Unit Development under Subdivision, Type II.

§ 3.102 GENERAL PROVISIONS.

3.102.05 Time extension. A time extension may be granted for six months at a time, a period not to exceed one year total, six months provided:

- A. The applicant requests the time extension prior to expiration of the time limit.**
- B. No changes are made to the approved land use Application.**
- C. The applicant can show intent to initiate construction on the site within the six month extension period.**
- D. There have been no changes in the facts or applicable policies or ordinance provisions on which the original approval was based.**

§ 3.104 LOT LINE ADJUSTMENTS.

3.104.03 Submittal requirements for preliminary review.

A. Application process. Applications for lot line adjustments~~partitions~~ shall be submitted on forms provided by the City 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.

B. Submittal requirements. Each Application shall be accompanied by a ~~preliminary partition plat map~~ drawn to scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:

1. Map number and tax lot or tax account number of subject properties.
2. The boundary lines and ~~dimensions approximate area~~ of the subject properties.
3. ~~Dimensions and s~~Size in square feet or acres of the subject properties, before and after the lot line adjustment.
4. The approximate location and dimensions of existing streets, easements or rights-of-ways adjacent to, or within, the subject properties, ~~and existing improvements on the property.~~
5. The location of the property boundary after the proposed adjustment is completed.
6. Location, size, and setbacks of existing structures on the subject properties before and after the lot line adjustment.

...

§ 3.105 PARTITIONS.

3.105.06 Process for final plat approval.

A. Survey. Within one year of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded.

B. Final approval. The City shall sign the final plat if the plat substantially conforms with the approved preliminary plat, and if the conditions of approval are satisfied. Required endorsements on a final plat are City Manager and City Engineer.

C. Recording of approved plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees.

D. Improvements/bonding. Prior to recording the final plat, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

3.105.07 Expedited land division.

J. Appeal fee. Filing an appeal requires a deposit of ~~\$300~~ to cover costs. An appellant faces the possibility of an assessment of ~~\$500~~ for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.

§ 3.106 SITE DEVELOPMENT REVIEW.

3.106.06 Evaluation of site development plan. The review of a site development plan shall be based upon consideration of the following:

A. Conformance with the general development standards in Subchapter 2.35-2.200.

...

3.106.06 Evaluation of site development plan. The review of a site development plan shall be based upon consideration of the following:

A. Conformance with the general development standards in § 2.200.

B. Adequacy of public and private facilities.

C. Traffic safety, internal circulation and parking;

D. Provision for adequate noise and/or visual buffering from non-compatible uses.

E. The City of Donald strongly encourages new development to implement methods and technologies to promote local sustainability and resiliency, including but not limited to: smart city technologies, LEED certification, smart metering, smart sensors for pollution, purple pipe, stormwater reuse, permeable pavers, solar panels, charging stations, etc.

§ 3.109 SUBDIVISIONS.

3.109.03 Review procedures.

A. *Planning Commission.* All preliminary plans for subdivisions shall be heard by the Planning Commission pursuant to the requirements for a Type II procedure as set forth in § 3.203.

B. *Time limit.* Approvals of any preliminary plans for a subdivision shall be valid for one year after the date of the written decision. A final plat for a final plan for a subdivision shall be recorded within this time period or the approval shall lapse.

C. *Re-Application required.* 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.

3.109.06 Final plat review of subdivisions.

A. *Final review.* The final subdivision plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. ~~The City Manager, or designee,~~ shall signify staff approval of the final plat by signing the document. Required endorsements on a final plat are City Manager and City Engineer.

B. *Filing final plat.* The final subdivision plat shall be filed with the Marion County Clerk's Office.

C. *Improvements/bonding.* Prior to approval of the final plat, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

§ 3.113 PLANNED UNIT DEVELOPMENTS (PUD).

3.113.03 *Review and approval process.* A PUD shall be reviewed through a two-step process, as follows:

A. *Preliminary plan.* The preliminary plan is reviewed under a ~~Type III~~ Type II procedure. The preliminary plan review examines the PUD plan with respect to items such as density, including the number, type, and location of dwelling units; parking; impacts on surrounding areas; adequacy of services; and conceptual plan for service improvements. Preliminary plan approval will only be granted when there is a reasonable certainty that the PUD will fulfill all applicable requirements of the City Codes.

1. *The Planning Commission may require a second hearing to review the preliminary plan if modifications are needed to satisfy applicable standards and criteria for approval.*

B. *Final plan.* The final plan for the PUD is reviewed under Type I administrative procedures. The applicant must submit the detailed and technical information necessary to demonstrate that all applicable City standards, requirements, and conditions have been met. Approval will only be granted if the final plan is in substantial conformance with the preliminary plan.

...

E. *Modifications to an approved PUD.* Once a final PUD plan has been approved, the PUD may be modified as follows:

1. *Minor modifications to an approved PUD will require a Type I administrative review.*

2. *Major modifications to an approved PUD will require a Type III quasi-judicial review by the Planning Commission.*

3. *Determination of the appropriate review type for a PUD modification will be made by City planning staff.*

§ 3.204 PUBLIC NOTICE REQUIREMENTS.

3.204.01 *Type I Action.* Written notice of a Type I decision shall be mailed to the applicant and all property owners within 100 feet of the subject property. Written notice for a Type I shall include the following:

1. Summary of the request.
2. Relevant decision criteria.
3. Findings of fact indicating how the request does or does not comply with the decision criteria.
4. Conclusory statement indicating approval or denial of the request including (where appropriate) conditions of approval.
5. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.

3.204.02 *Type II and Type III actions.* Written notice of any public hearing shall be mailed at least 20 days prior to the hearing date to the applicant and owners of property within 200 feet of the boundaries of the subject property. At least two weeks prior to the hearing date, notice shall also be posted on the subject property, or at the closest nearby public access point, containing at minimum the file number, location, proposed action, public hearing date, time, and place, using the City's template.

3.204.03 *Type IV actions.* Written notice of a hearing before the Planning Commission or City Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than ten days prior to the date of the hearing before the Planning Commission or City Council.