

**ARTICLE 1 ADMINISTRATIVE PROVISIONS**

**SECTION 1.110 TITLE**

This document shall be known as the **Turner Land Use Development Code** and may be referred to as the "Development Code" or "Code."

**SECTION 1.120 PURPOSE**

The purpose of this Code is to establish standards and procedures for the orderly development of land within the City of Turner in conformance with the Turner Comprehensive Plan, to protect property rights, provide due process of law and promote the public health, safety and welfare of the citizens of Turner.

**SECTION 1.130 COMPLIANCE STANDARDS**

- (1) A property may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this Code permits.
- (2) No property, yard, off-street parking area, off-street loading area or other open space existing on or after the effective date of this Code shall be reduced below the minimum required for it by this Code.
- (3) No property, yard, off-street parking area, off-street loading area, or other open space shall be used as the requirement for another lot or use, except as provided for in this Code.

**SECTION 1.140 REGULATION COMPLIANCE**

In addition to the regulations contained herein, all proposed developments within the City shall comply with the following regulations:

- (1) The Turner Comprehensive Plan.
- (2) Official Maps or Development Plans.
- (3) Chapter 227, City Planning and Zoning, of the Oregon Revised Statutes (ORS 227).
- (4) Chapter 197, Comprehensive Land Use Planning Coordination, of the Oregon Revised Statutes (ORS 197).
- (5) Chapter 92, Subdivisions and Partitions, of the Oregon Revised Statutes (ORS 92).
- (6) Chapter 209, County Surveyors, of the Oregon Revised Statutes (ORS 209).
- (7) Recording requirements of the Marion County Surveyor.
- (8) All other applicable regulations provided by law

No person shall divide land or develop land within the City without having complied with the applicable provisions of this Code and the applicable provisions of county, state or

federal law.

**SECTION 1.150 INTERPRETATION**

Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or any other city ordinance, state law or federal law, the applicable provisions which are more restrictive shall govern.

**SECTION 1.160 VALIDITY**

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

**SECTION 1.170 ADMINISTRATION**

- (1) The City shall maintain authority over all activities within the City Limits as provided by law and the City Charter. All powers of the City shall be vested in the City Council unless otherwise provided in the City Charter.
- (2) The City Administrator, under the direction of the City Council, shall have the authority and duty to enforce the provisions of this Code and all related city, county, state or federal regulations. An Administrative Decision is a decision by the City Administrator with notification of actions taken provided to the Planning Commission and City Council.
  - (a) The City Administrator shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.
  - (b) The City Administrator shall have decision authority for Property Line Adjustments specified in Section 2.313(1) and (2) floodplain development permits, partitions up to 3 lots, site plan reviews and variances. The City Administrator shall have the authority to require a public hearing and decision by the City Council for any administrative decision.

**(Amended by Ord. 10-106)**  
**(Amended by Ord. 20-01 Attachment "A")**
  - (c) All correspondence and inquiries related to this Code shall be directed to the City Administrator at the Turner City Hall, 5255 Chicago St. SE, Turner, P.O. Box 456, Oregon 97392, Telephone - (503) 743-2155, Fax - (503) 743-2140.
  - (d) The City Administrator may designate other City Officers or Staff to undertake specialized duties, including but not limited to, the City Attorney, City Engineer and City Planner.
- (3) The Planning Commission shall have the authority to review and approve all Site Plans, Conditional Uses, Variances, Partitions, Property Line Adjustments specified in Section 2.313(3) and Floodplain Development Permits involving placement of fill or floodway development as specified in Section 4.210.

**(Ord. 02-105 Attachment "A")**

- (4) The City Council, with recommendation from the Planning Commission, shall have the authority to review and approve all Comprehensive Plan and Zoning Map Amendments and Subdivisions. The City Council shall also review and approve all Annexations and Vacations. Approved Annexations will then be referred to voters in accordance with the City Charter.

**(Ord. 10-106)**

- (5) In the event that a single land use application requires more than one decision, the highest deciding authority will make all decisions requested in the application.

**(Ord. 99-113)**

- (6) A decision by the City Administrator, the Planning Commission or the City Council may be appealed as provided in **Section 3.700**.

- (7) The intent determining substantial conformance is solely to facilitate minor modifications from one planning approval phase step to another. The City Administrator shall compare the final plat or final development plan/building permit with the approved preliminary plat or plan and determine if it is in substantial conformance before the City may allow the project to proceed. Substantial conformance shall mean that such final plans:

- (a) Are within 10 percent of the original approval;
- (b) In no case are in violation of minimum or maximum standards set in this code;
- (c) Adequately address all conditions of approval

In lieu of using this procedure, the Administrator may designate the Planning Commission as the review authority for the final plat/plan to make a determination under a public hearing process (or public meeting process if the application was originally an administrator decision).

**(Ord. 11-101)****SECTION 1.180 ENFORCEMENT**

- (1) **Remedy.** A structure located, constructed, maintained, repaired, altered or used in violation of this Code, or land used in violation of this Code, shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Code, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

- (2) **Procedures.**

- (a) Within ten (10) days after determination of a violation of this Code, the City shall notify the property owner that a violation exists. Such notice shall

specify, with reasonable certainty, the following:

1. The location and nature of the violation.
2. The provision or provisions of this Code which have been violated.\
3. That immediate enforcement will be sought unless the violation is corrected or corrective action has been initiated within ten (10) days.

A defect in the notice of violation shall not prevent the enforcement of this Code.

- (b) If necessary, the City Attorney shall take such legal action as required to insure compliance with this Code unless:
  1. It has been demonstrated to the satisfaction of the City that the violation has been corrected or removed or;
  2. A court of competent jurisdiction has stayed enforcement pending the outcome of a proceeding before it, concerning the violation.
- (3) **Penalty.** A violation of this Code may be the subject of criminal, civil, or other sanctions authorized by State Law or City Ordinances.
  - (a) In addition to, or in lieu of criminal actions, a violation of this Code or a permit issued herein may be the subject of a civil penalty to be recovered by a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.
  - (b) Upon conviction of a civil violation of this Code, a fine up to \$1,000 may be imposed. Each day such violation continues beyond the ten (10) day Notice of Violation first provided by the City Administrator, will be considered a separate offense.

#### **SECTION 1.190 FEES**

Application and review fees established by resolution of the City Council shall be paid to the City at the time of submitting an application and shall be in addition to other fees established by county, state or federal regulations.

#### **SECTION 1.200 DEFINITIONS**

- (1) **Rules of Construction.** The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Code:
  - (a) **Tense:** Words used in the present tense include the future tense.
  - (b) **Number:** Words used in the singular include the plural, and words used in the plural include the singular.
  - (c) **Shall and May:** The word "shall" is mandatory; the word "may" is permissive.

- (d) **Gender:** The gender may include the feminine, masculine and neuter which can mean any of those forms.
- (e) **Headings:** If there is any conflict or inconsistency between the heading of an article, section or paragraph of this Code and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

(2) **Definitions.** The words and phrases used in this Code shall have the following meaning:

**ABUT** Contiguous to or immediately joined. For example, two lots with a common property line are considered to be abutting.

**ACCESS** The way or means by which pedestrians, bicycles, and vehicles shall have safe, adequate and usable ingress and egress to property.

**ACCESS MANAGEMENT** Regulation of access to streets, roads, and highways from abutting property and public and private roads and driveways.

**ACCESSWAY** A right-of-way or easement, not located within a street right-of-way, that provides a space for pedestrian and / or bicycle passage.

**ADEQUATE ACCESS** Direct routes of travel between destinations.

**ADEQUATE AREA** Space sufficient to provide all required public services to standards defined in this code. **(Ord. 99-107 Attachment "A")**

**ACCESSORY STRUCTURE OR ACCESSORY USE** A structure or use incidental and subordinate to the primary use of property and located on the same lot as the primary use.

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**ACCESSORY DWELLING UNIT** A secondary dwelling unit on a lot where the primary use is a single-family dwelling.

**ADVERSE IMPACT** An impact that is detrimental to or contrary to the desired effect or so opposed as to cause harmful interference. A negative effect that is detrimental to the public welfare or injurious to people, property or the community environment.

**ALLEY** A public way which affords only a secondary means of access to property.

**ALTERATION** Any change, addition or modification in construction or occupancy.

**BASEMENT** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**BED and BREAKFAST FACILITY** A dwelling where travelers are lodged for sleeping

and dining purposes under the provisions of local or state law governing such facilities.

**BICYCLE FACILITIES** Facilities which provide for the needs of bicyclists, including bikeways and bicycle parking.

**BIKEWAY** The general term for the four basic types of bikeways:

- (a) **Bikes lanes** are paved 5 to 6-foot wide designated lanes adjacent to (vehicle) travel lanes.
- (b) **Shoulder Bikeways** are where bicyclists travel within the roadway's paved shoulder. Typically, shoulder bikeways are four to six feet in width.
- (c) **Shared Roadways** are roadways where bicyclists and motor vehicles share the travel lane.
- (d) **Multi-Use Paths** are separated from vehicular traffic. They are two-way pathways about 10 feet wide used by pedestrians, bicyclists and joggers.

(Ord. 99-107 Attachment "A")

**BOARDING AND/OR ROOMING HOUSE** A building where lodging, with or without meals, is provided for compensation, but shall not include Homes for the Aged, Nursing Homes or Group Care Homes.

**BUILDING** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING HEIGHT** The vertical distance from the average adjacent building grade to the highest point of the roof.

**BUILDING INSPECTOR** An employee of Marion County with duties and authority to enforce all building codes and the provisions of this Code in accordance with Section 2.200 Building Permits.

**BUILDING LINE** A line on a plat or map indicating the limit beyond which buildings or structures may not be erected. Also referred to as the Setback line. The area between the building or setback line and the property line is referred to as the "yard."

**CEMETERY** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**CHURCH** A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**CITY** The City of Turner, Oregon.

**CLINIC** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a dispensary in each such building to handle only merchandise of a nature customarily prescribed by occupants in

connection with their practices.

**CLINIC, SMALL ANIMAL** A business establishment in which veterinary services are rendered to small domestic pets on an out-patient basis with no overnight boarding allowed.

**CLUB** A facility owned or operated for a social, educational, or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

**COMMUNITY CENTER** A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the neighborhood in which the facility is located or to any resident of the City or surrounding area, provided that the primary purpose of the facility is for assembly, and provided further that no permanent or temporary commercial eating or drinking facilities shall be operated on the premises.

**COMMUNITY SEPTIC SYSTEM** A sewage treatment and disposal system serving two or more dwelling units.

**COMPREHENSIVE PLAN** A city plan for the guidance of growth and improvement of the City, including modifications or refinements which may be made from time to time.

**COUNCIL** The City Council of the City of Turner, Oregon, which is the governing body of said City.

**CURB ELEVATION** The height above mean sea level of the established curb in front of a building measured from the center of such building front. Where no curb elevation has been provided, the City shall establish the curb elevation for compliance with City standards.

**DAY NURSERY/DAY CARE CENTER** Any institution, establishment or place, including nursery schools or private kindergartens, in which children are commonly cared for.

**DECIDING AUTHORITY** The City Administrator, City Planning Commission or City Council responsible for making a decision on an application.

(Ord. 02-105 Attachment "A")

**DECLARANT** The person who files a declaration under ORS 92.075.

**DECLARATION** The instrument described in ORS 92.075 by which the subdivision or partition plat was created.

**DEVELOPMENT** All improvements on a site, including alterations to land and new or remodeled structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.

**DLCD** Department of Land Conservation and Development.

**DWELLING** A building or portion thereof, which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one (1) or more families.

**DWELLING, MULTI-FAMILY (APARTMENT)** A building or portion thereof designated for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

~~**DWELLING, MULTI-FAMILY (COTTAGE HOUSING)** A grouping of 4 to 12 detached dwelling units located on a single lot or parcel that includes a common area.~~

**Deleted:** three or more

**Deleted:** buildings containing three or more

**Deleted:** units on the same lot

**DWELLING, SINGLE-FAMILY** A detached building, other than a recreational vehicle, designed for and occupied by not more than one family.

~~**DWELLING, SINGLE-FAMILY ATTACHED (TOWNHOME)** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on adjacent lot(s).~~

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**DWELLING, TWO-FAMILY (DUPLEX)** A detached building designed for and occupied by not more than two (2) families living independently of each other.

**DWELLING UNIT** A single unit providing complete independent living facilities, designed for occupancy by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT** A grant of the right to use a strip of land for specific purposes.

**FACT** Something that has actual existence, an actual occurrence or a piece of information presented as having objective reality. In the Land Use Hearing Process, facts are the information submitted as evidence that is relied upon in making a decision on a land use issue. The justification for the decision shall be based on the criteria, standards and facts set forth in the hearing.

**FENCE, SIGHT-OBSCURING** A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

**FLOOR AREA** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

**FLOOR ELEVATION** The height above mean sea level of the first floor of a building that is not a basement.

**GARAGE, PRIVATE** A fully enclosed detached accessory building or a fully enclosed portion of the main building for the parking of automobiles of the occupants of the



premises.

(Ord. 00-101)

**GARAGE, PUBLIC** A building other than a private garage used for the care, repair, parking or storage of automobiles.

**GRADE (GROUND LEVEL)** The average elevation of the finished ground level at the centers of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the back edge of sidewalk elevation nearest the center of the wall shall constitute the ground level.

**HOME OCCUPATION** A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence provided the use does not alter the character of the dwelling, there is no exterior display of stock and no employees other than family members.

**HOTEL/MOTEL** A building or group of buildings used for transient lodging containing more than 5 guest rooms without guest room cooking facilities used primarily for sleeping purposes. On-site restaurant facilities may also be provided.

**LCDC** Land Conservation and Development Commission.

**LOADING SPACE** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**LOT** A unit of land that is created by a subdivision of land.

**MANUFACTURED DWELLING** A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling and is not designated as a "recreational vehicle" or prefabricated structure as defined by the State or Oregon.

(Ord. 02-105 Attachment "A")

**NEARBY USES** Activities or uses within 0.25 mile which can be reasonably expected to be used by pedestrians, and within 1 mile which can reasonably be expected to be used by bicyclist.

**NEIGHBORHOOD ACTIVITY CENTERS** Schools, parks, and other like sites.

(Ord. 99-107 Attachment "A")

**NONCONFORMING STRUCTURE LOT OR USE** A lawful existing structure, lot, or use, at the time this Code becomes effective which does not conform to the standards of the zone or district in which it is located.

**OCCUPANCY** The purpose for which a building, or part of a building, is used or intended to be used.

**OWNER** An individual, association, partnership, or corporation having legal or

equitable title to land, other than legal title held for purpose of security only.

**PARCEL** A unit of land that is created by a partitioning of land.

**PARKING SPACE** An off-street enclosed or unenclosed surfaced area of not less than 180 square feet, not less 8 feet wide and 18 feet in length, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

**PARTITION** Either an act of partitioning land or an area or tract of land partitioned into three lots or fewer.

**(Amended by Ord. 20-01 Attachment "A")**

**PARTITION LAND** To divide land into two or three parcels of land within a calendar year, but does not include:

- (a) A divisions of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning Code.
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan.

**PEDESTRIAN CONNECTION** A continuous, unobstructed, reasonably direct route intended and suitable for pedestrian use between two points. Pedestrian connections include but are not limited to sidewalks, walkways, access ways, stairways and pedestrian bridges.

**(Ord. 99-107 Attachment "A")**

**PEDESTRIAN WAY** A right-of-way for pedestrian traffic.

**PLANNING COMMISSION** The Planning Commission of the City of Turner.

**PLAT** A final subdivision plat, replat or partition plat.

- (a) **Partition Plat:** A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
- (b) **Subdivision Plat:** A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

- (c) **Replat:** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**PROFESSIONAL OFFICE** An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

**PROPERTY** A lot or parcel, or a single unit of land which, at the time of application for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

- (a) **Corner Property:** A lot or parcel at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135°.
- (b) **Through Property:** A lot or parcel having frontage on two parallel or approximately parallel streets other than alleys.
- (c) **Flag Property:** A lot or parcel which has access to a right-of-way by means of a narrow strip of land.

**PROPERTY LINE** The legal boundary of a lot or parcel. The division line between two units of land.

- (a) **Front Property Line:** The lot or parcel line separating the property from a street other than an alley, and in the case of a corner property, the shortest property line along a street other than an alley.
- (b) **Rear Property Line:** The lot or parcel line which is opposite and most distant from the front property line.
- (c) **Side Property Line:** Any lot or parcel line not a front or rear property line.

**PROPERTY WIDTH** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

**PROPERTY LINE ADJUSTMENT** The relocation of a common property line between two abutting properties.

**PUBLIC AND SEMI-PUBLIC BUILDING OR USE** A building or use, owned or operated by a religious, charitable, or other nonprofit organization; a public utility; or any social agency such as a church, school, auditorium, meeting hall, library, art gallery, museum, fire station, cemetery, park, playground, community center or similar use.

**REASONABLY DIRECT** A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.  
(Ord. 02-105 Attachment "A")

**RIGHT-OF-WAY** A continuous strip of land between property lines allowing a right of passage usually containing a street, railroad or other passageway.

**ROADWAY** The portion of a street right-of-way developed for vehicular traffic.

**SALE OR SELL** Every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

**SERVICE STATION, AUTOMOBILE** A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

**SEWAGE DISPOSAL SYSTEM** Any approved method of sewage treatment including but not limited to a municipal system, septic tank and drain field and sand filter systems.

**SETBACK** A line within a property boundary defining a location limit for buildings, structures or other defined uses that creates an area or yard between the property line and the setback line.  
(Ord. 02-105 Attachment "A")

**SIDEWALK** A pedestrian walkway with permanent surfacing.

**SIGN** Any medium including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes or identification.

**STORY** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. (See basement).

**STORY, HALF** Shall mean any basement or cellar, except as provided in this Chapter, which has less than six (6) feet of its height above grade.

**STREET OR ROAD** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road," "highway," "lane," "drive" "avenue," "alley" or similar designations.

- (a) **Arterial:** A street of considerable continuity which is primarily a traffic artery for interconnection between large areas.
- (b) **Collector:** A street supplementary to the arterial street system and a means of interconnection between arterials; used for through traffic and access to small areas.

- (c) **Minor street:** A street intended primarily for access to abutting properties.
- (d) **Cul-de-sac:** A short dead-end street terminated by a vehicular turnaround.
- (e) **Half street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.
- (f) **Limited access street:** A means of access to property that is limited by law for public roads or by posting by an owner for private roads.

**STRUCTURAL ALTERATION** Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders or structural change in the roof or in the exterior walls.

**STRUCTURE** That which is built or constructed, an edifice or building of any kind, or any physical work built up of parts joined together in some definite manner.

**SUBDIVIDE LAND** To divide an area or tract of land into four or more lots within a calendar year.

**SUBDIVISION** Either an act of subdividing land or an area or tract of land subdivided into four or more lots.

**(Amended by Ord. 20-01 Attachment "A")**

**TENTATIVE PLAN** A tentative plan is the application, supplemental data and map showing the general design of the proposed subdivision or partition, submitted to the City for approval under the provisions of **ORS 92** and **Section 2.320** of the Turner Development Code.

**USE** The purpose for which land or a structure is designed, arranged or intended or for which it is occupied and maintained.

#### **YARD**

- (a) **Exterior Yard** A yard area abutting a street right-of-way created by a setback line.
- (b) **Interior Yard** A yard area adjacent to a property line created by a setback line that may be either a side yard or rear yard abutting another property.
- (c) **Rear Yard** An interior yard opposite the Front Yard.
- (d) **Front Yard** An exterior yard facing a street. For corner lots the smallest street facing dimension shall be the front of the property.

**(Ord. 02-105 Attachment "A")**

**ZERO PROPERTY LINE** A lot or parcel line having no setback therefrom and may equally divide a common wall in a building.