

2022 Fall Biannual Code Amendments
Planning and Development Engineering
Board of County Councilor Work Session
August 24, 2022

Periodically staff “batch” minor amendments to the Clark County Code to correct scrivener’s errors, update references, clarify standards, and to make some minor policy changes. These batches of code changes are commonly known as “Biannual Code Amendments”.

Language proposed to be deleted is ~~struck through~~. Language proposed to be added is double-underlined.

SCRIVENER’S ERRORS AND MINOR CHANGES

1. **Appendix F Chapter 10 of Title 40 Highway 99 Overlay District Standards – The definition of “cottage housing” in Appendix F states: “See Section 7.3 for detailed cottage housing provisions.” However, the cottage housing provisions are actually located in Section 7.6.**

Title 40 Appendix F, Chapter 10, Definitions - Cottage Housing

- a. Small single-family detached dwelling units arranged around a common open space.
See Section ~~7.3~~ 7.6 for detailed cottage housing provisions.

Rationale: The code currently references an incorrect section which requires a correction.

2. **Add RC-1 and RC-2.5 to 40.200.040.C.1.b Minimum and Maximum Calculations**

40.200.040.C.1.b – Lot Area Calculations

- a. In the Urban Reserve (UR-10 and UR-20), Urban Holding (UH-10 and UH-20), Rural (R-5, R-10 and R-20), Rural Center (RC-1 and RC-2.5), agricultural (AG-20 and AG-WL) and forest resource (FR-40 and FR-80) districts, lot area includes on-site road easements, and one-half (1/2) the width, or thirty (30) feet, whichever is less, of abutting public rights-of-way for perimeter streets, excluding limited access state or interstate highways.

Rationale: It appears the RC-1 and RC-2.5 zones were inadvertently left out of this section, which includes all the other rural zones. This correction provides consistency for this section of the code by including all rural zones.

3. **Add language confirming a wall is required and remove references to illustrations.**

40.320.010.B.4.b

40.320.010.B.4.b

- b. Required Materials. The L4 standard requires a six (6) foot high wall that complies with the site obscuring F2 standard for walls (Figure 40.320.010-7). When abutting another property, the wall shall abut the property line. When abutting a street or road right-of-way, the wall shall be on the interior side of the landscaped area. One (1) tree is required per thirty (30) lineal feet of wall or as appropriate to provide a tree canopy over the landscaped area with the exception of energy dissipation points at the locations of stormwater inlets. LID bioretention facility plantings may be used, and are encouraged, to satisfy plant requirements. In addition, four (4) foot high shrubs are required per thirty (30) lineal feet of wall. Groundcover plants must fully cover the remainder of the landscaped area. See Figure 40.320.010-4.

Rationale: This section needs clarification that a wall is required, and that the references to the F2 standards are only in relation to site obscuring standards and that a fence cannot be substituted for the wall.

4. **Correct an error where the setback in the table is inconsistent with the referenced note.**

40.210.030 Rural Center Residential Districts (RC-2.5, RC-1)

Table 40.210.030-3. Setbacks, Lot Coverage and Building Height						
Zoning District	Minimum Setbacks ⁴				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet) ⁵	Side		Rear (feet) ²		
		Street (feet) ⁵	Interior (feet) ¹			
RC-2.5	25	25	10, 50	10, 50	N/A	35 ³
RC-1	25	25	10, 50	10, 50	N/A	35 ³

² Rear Setback. Minimum rear setback for all structures when the abutting property is not zoned for natural resource or surface mining uses is ~~twenty (20)~~ ten (10) feet unless fire regulations require a greater setback. Minimum rear setback for all structures shall be fifty (50) feet when abutting property is zoned for natural resource uses. Rear setbacks from abutting property zoned for surface mining uses shall be a minimum of one hundred fifty (150) feet for all structures, unless a lesser setback is approved per Section [40.250.022\(D\)\(2\)\(b\)](#).

Rationale: The setback in the referenced note should match the setback listed in the table. It was determined that 10' is the correct setback.

REFERENCE UPDATES AND “CLEAN-UPS” FROM OTHER CODE CHANGES

1. Remove redundant information within the Street and Road Standards.

40.350.030.B.5.a

(7) ~~The intersection of driveways with paved rural public roads shall be paved from the edge of the public road to the right-of-way or to twenty (20) feet from the edge, whichever is greater.~~

Rationale: This requirement is already covered in Section 40.350.030(B)(7). Inclusion in this section of code does not change its applicability.

CLARIFICATIONS

1. Clarify that the required Recreation Space for multi-family developments may be calculated toward the minimum landscaping requirements outlined in Clark County code section 40.220.020.C Development Standards.

40.220.020.C

10. Recreation Space. Recreation space shall be provided as required in Section [40.260.150](#). The area of any entirely outdoor “recreation space” used to satisfy the requirements of Section 40.260.150.C also may be included in the calculation of the amount of landscaping required under Section 40.220.020.C.9, provided however that such outdoor recreation space shall not be considered landscape buffer under Section 40.320.010.

Rationale: The application of Recreation Space and minimum landscaping requirements for multi-family developments has been unclear and inconsistently applied by staff. This proposed code amendment provides clarification and consistency for both staff and the development community. On July 5, 2022, at the request of the Development Engineering Advisory Board (DEAB), the County Council approved an interim ordinance, Ordinance No. 2022-07-06, containing language identical to the underlined language above. It appears that by operation of law, that interim ordinance will expire on September 13, 2022. On July 19, 2022, Ordinance No. 2022-07-09, which also contained the underlined language shown above, was approved by the Council. It would have become effective on July 29, 2022, except that a referendum petition proposal challenging Ordinance No. 2022-07-09 was filed with and certified by the County Auditor, thus suspending Ordinance No. 2022-07-09 before it became effective.

Ordinance No. 2022-07-09 will remain suspended until either: 1) sufficient valid signatures are collected between now and December 9, 2022, and voters have voted on the referred proposal; or (2) sufficient valid signatures are not collected by December 9, 2022. If sufficient valid signatures

are collected between now and December 9, 2022, the voters will have an opportunity to vote on the measure in the next general election of November 2023. If sufficient valid signatures are not collected by December 9, 2022, Ordinance no. 2022-07-09 will expire by operation of law on January 29, 2023, unless it is renewed for another six (6) months at another duly advertised public hearing at which public comment is allowed.

This proposed amendment would codify the operative language of the interim ordinances within Title 40 of the Clark County Development Code, particularly by amending CCC 40.220.020.C. The adopting ordinance would supersede both interim ordinances.

2. Create separate definition for Public and Private Alleys

40.100.070 Definitions

Alley	"Alley" means a right-of-way not over thirty (30) feet wide which affords, generally, a secondary means of vehicular access to abutting lots, and is not intended for general use.
-------	---

<u>Alley,</u> <u>Public</u>	<u>"Public Alley" means a right-of-way not over thirty (30) feet wide which affords a secondary means of vehicular access to abutting lots and is not intended for general use.</u>
<u>Alley,</u> <u>Private</u>	<u>"Private Alley" means an easement or tract not over thirty (30) feet wide which affords, generally, a secondary means of vehicular access to abutting lots, and is not intended for general use.</u>

Rationale: This current definition is for a public alley while the code allows private alleys now. Additionally, public alleys should not be allowed to serve as the primary access to the residence as it creates an accessibility issue for Public Work to maintain the roadway.

3. Clarify that driveway pave back is a requirement for access to public roads.

40.350.030.B.4

- a. Applicability. As noted in Section 40.350.030(A)(2), this subsection also applies to applications for building permits and applications for access to public roads. Additionally, paving of driveways in the urban and rural areas shall follow the requirements of section CCC 40.350.030(B)(7)(c).

Rationale: Access management (B)(4) and sight distance (B)(8) are requirements for all permits that require access to a public road. Driveway pave back should also be part of that and has been applied consistently in the past; however, since the code language is in (B)(7) and not in (B)(4) or (B)(8) it cannot technically be applied to building permits or other permits that do not trigger all of the requirements of the transportation code, yet still require access to the public road; thus, the need to reference (B)(7) in (B)(4). Pave back is important as it reduces the risk of gravel migrating to the public road.

1

2 **4. Clarify that only existing flag lots are exempt from Section 40.350.030.B.4.b.1, Driveway**

3 **Spacing.**

4 40.350.030.B.4.b.1

5

- 6 c. Existing flag lots and joint driveways serving between two (2) and four (4) lots are exempt from
- 7 the requirements of this subsection.

8 **Rationale:** One should not be able to create exempted flag lots with substandard driveway spacing

9 when subdividing property. When the flag lot is existing, the applicant has no other options.

10

11 **5. Clarify that the driveway length standard applies to modified and extended driveways as well.**

12 40.350.030.B.4.b.3

- 13 b. All new, modified or extended driveways longer than three hundred (300) feet shall be provided
- 14 with an approved turnaround at the terminus. There shall also be approved turnouts constructed
- 15 such that the maximum distance from turnout to turnout, or from turnout to turnarounds, does
- 16 not exceed five hundred (500) feet. Turnouts shall comply with the Standard Details Manual.
- 17 Construction of roads and driveways within the wild land urban interface/intermix area shall
- 18 conform to Section 15.13.030.

19 **Rationale:** Modifications or extensions of driveways to serve, new homes, additional dwelling

20 units and structures should be held to the new driveway standard as this is a fire, life safety

21 issue as it relates to access to the new structure.

22

23 **6. Correct table reference for residential driveway sight distance**

24 40.350.030.B.8

- 25 e. New Urban and Rural Residential Driveways. New urban and rural residential driveways
- 26 accessing roads with a speed limit of ~~over~~ twenty-five (25) mph or less are subject to ~~Table~~
- 27 ~~40.350.030-8.~~ Table 40.350.030-7.

28 **Rationale:** This code section as written is already covered in a previous section and does not

29 change the applicability. Clarifications are needed to identify the true intent of the code section and

30 changes are in line with WSDOT Design Manual standards.

31

1 **7. Remove 20 MPH speed limit from Table 40.350.030-8**

2

Table 40.350.030-8. Controlled Intersection, Public Road and Driveway Sight Distance	
Speed, Uncontrolled Road (mph)	Minimum Corner Sight Distance (feet)
20	200
25	250
30	300
35	350
40	400
45	450
50	500

3

4 **Rationale:** There are no public road within Clark County signed less than 25 MPHs.

5

6 **8. Clarify that an alternative pavement designs for any road classification requires a technical**
7 **road modification and that alternative turnaround designs on private driveways and road**
8 **require a minor deviation**

9 40.550.010.B.1.b

10 2. ~~Alternative pavement design, roadway cross-section, roadway geometry or construction~~
11 ~~material changes for local access roads. Alternate hammerhead turnaround designs on private~~
12 ~~driveways and roadways.~~

13 40.550.010.B.2.b

14 2. Alternative pavement design, roadway cross-section, roadway geometry or construction material
15 changes for ~~collector and higher~~ all classification of roadways.

16 12. Alternate hammerhead turnaround designs for all public roadways.

17 **Rationale:** Alternative pavement designs, etc. on local access road should also be considered an
18 example of a technical road modifications as it would require engineering analysis and county review
19 and approval requires moderate analysis, discretion, and documentation, and requires multiple
20 review staff. Alternate turnaround designs on private roads or driveways should be considered an
21 example of a minor deviation as they do not involve the public interest and involves minimal review
22 to approve and document.

9. Clarify references to where trip generation or pass-by information is found when determining Traffic Impact Fees.

40.620.010 Traffic Impact Fee Formula

The impact fee component for roads shall be calculated using the following formula:

$$\text{TIF} = (\text{size of development by unit of measure/unit of measure}) \times (\text{daily trips per unit of measure}) \times (\text{pass-by factor}) \times (\text{BEF}) \times (0.85) \times (\text{fee per daily trip by district})$$

A. "Unit of measure" means the associated trip generation rates and other factors by land use type that have been provided adopted in the Traffic Impact Fee Technical Document and supplemented by the current Institute of Transportation Engineers Trip Generation Manual along with the Institute of Transportation Engineers Trip Generation Handbook. These rates shown in the Traffic Impact Fee Technical Document are most commonly used and are based on the Institute of Transportation Engineers Trip Generation Manual and Trip Generation Handbook User's Guide.

B. "Pass-by factor" means trips that are made as intermediate stops on the way from an origin to a primary trip destination without a route diversion. The pass-by factor can be obtained in the Institute of Transportation Engineers Trip Generation Handbook Manual.

C. "BEF" means business enhancement factor; a multiplier of 0.70 used to reduce TIF payment for retail and service-related businesses only. Retail and service related businesses have shorter average trip lengths, reducing impacts on the existing transportation infrastructure.

D. Adjustment of 0.85 is applied for the portion of anticipated additional tax revenues resulting from a development which is pro-ratable to system improvements contained in the capital facilities plan.

Rationale: There is much confusion and not much leeway in TIF application. The way the language is written a person would not understand where to find trip generation or pass-by information because the references have not been called out correctly. Furthermore, the way the code is written the only 'approved' trip generations for TIF calculation is within the TIF Technical Document. This is a very abbreviated list of ITE Land Use Categories. Because of this, staff has had a hard time using any other ITE Land Use Codes that may better represent or exactly fit the proposed land use in the process of calculating TIF if the land use is not identified on the Technical Document. Applicants have challenged application of land uses not identified in the Technical Document and the Auditor's Office is also questioning the use of the Special Rate Impact Fees in LMS. This will also require an update to the TIF Technical Document to ensure that the trip generation information matches the current Manual and Handbook.

MINOR POLICY ITEMS

1. Remove references to parked cars, sight distance triangles, and traffic control devices within corner clearance requirements and revert to pervious code language.

40.350.030.B.4.b

(1) Corner lot driveways shall be a minimum of forty (40) feet from the projected curb line or edge of pavement, as measured to the nearest edge of the driveway, ~~as long as the parked cars in the driveway are outside of the sight distance triangle. In the case of medium- and high-density~~

1 residential developments (R-12, R-18, R-22, R-30 and R-43), or when lots less than forty (40) feet
2 wide are allowed in mixed use, density transfer, and planned unit developments, or in cases the R1-
3 5 zone where this may be impractical, the driveway may be limited to twenty (20) feet in width and
4 located five (5) feet from the property line away from the intersection or as a twenty-five (25) foot
5 wide shared driveway at this property line., and the applicant's professional engineer may propose
6 traffic control devices, including stop signs, to preserve or manage sight distance. The County
7 Engineer, in reliance upon the determination of the applicant's professional engineer that the
8 proposal for a stop sign meets the criteria above, may authorize the installation of a stop sign(s).
9 Where a residential corner lot is located at the intersection of a nonarterial or noncollector street
10 with an arterial street, the corner clearance requirements of Section 40.350.030(B)(4)(c)(2)(f) shall
11 apply to the nonarterial or noncollector street.

12
13 **Rationale:** The addition of sight distance and potential mitigation measures to preserve sight
14 distance is inappropriate to be included in this section of code and has been difficult to implement.