CITY OF PHOENIX
PHOENIX, OREGON

ORDINANCE NO. 952

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 1.3 (DEFINITIONS), CHAPTER 2.2.3 (RESIDENTIAL DISTRICTS, BUILDING SETBACKS), CHAPTER 2.3.3 (CITY CENTER, BUILDING SETBACK), CHAPTER 2.4.3 (COMMERICAL HIGHWAY, DEVELOPMENT STANDARDS), CHAPTER 3.2.2 (VEHICLE ACCESS AND CIRCULATION) AND CHAPTER 3.6.3 (SIGNS)

WHEREAS, the Comprehensive Plan has an adopted policy to "promote the efficient use and esthetic design of urban residential use" (Housing Element, Goal 3); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-05; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix ORDAINS as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-05, Exhibit A.

Section 2: The Land Development Code chapters 1.3, 2.2.3, 2.3.3, 2.4.3, 3.2.2 and 3.6.3 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 16 day of June, 2014

_, Mayor

ATTEST:

_, City Manager/ Recorder

Exhibit A

CITY OF PHOENIX
O • R • E • G • O • N

PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT (541) 535-2050 • FAX (541) 535-5769

TITLE: **AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING SETBACKS AND AMENDING CHAPTERS 1, 2 AND 3**

FILE NUMBER: LDC: 14-05

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, and (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) expand the definitions of setbacks, covered porches, unenclosed porches, side yards; 2.) clarify setbacks for porches; 3.) reference newly adopted Oregon 99 setback requirements; and 4.) revise setbacks at intersections or driveways for vision clearance.

The purpose of these amendments is to ensure the method to measure the setback is clear to the property owner. This also clarifies the status of a porch, open or enclosed, and covered or uncovered.

The amendment also addresses the setbacks for Highway 99, making this requirement easy to find. This Highway 99 special setback was established by Ordinance and is in the Land Development Code. However, this requirement is not referenced in sections of the Code that will be used by applicants and planners to determine conditions of development. This amendment will correct this problem. **Please note that the attached amendment includes placing the reference to Highway 99 special setback in the Commercial Highway zone. This was inadvertently left out of the Planning Commission documents.**

Finally, this brings the visual clearance required at intersections in line with that used by other communities. The old visual clearance setback of 75 feet was very difficult for residences and businesses to meet. The current vision clearance setback requires that some lots are prohibited from constructing any sort of building in over 5,500 square feet of their property.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 1.3 Definitions

Footnote: Italics indicate new language; strikeouts indicate deleted language

Building line: The line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building foundation on the site.

Building setbacks: The distance between a building and a property line, measured from the ***closest point on the*** foundation to the property line. Typically, minimum and maximum setbacks may be required for front, side, ***exterior side,*** and rear of the building. See Chapter 2.2.3 Building Setbacks ***and Chapter 2.3.3 Building Setbacks.***

Porch: an exterior appendage to a building, forming an approach or vestibule to doorway that is generally covered. Enclosed means the porch contains wall(s) that are more than forty-two (42) inches in height measured from finished floor level, for fifty percent (50%) or more of the porch perimeter. "Unenclosed" means the porch contains no such walls, but it may be covered

Yard: ***An open space on a lot which is unobstructed, except for fences, from the ground upward, except as otherwise provided in this Code.*** ~~The area defined by setbacks (i.e., between the setback line and respective property line).~~

Yard, Front. The yard extending the full width of the front of a lot between the front (street) right of way and the front building line.

Yard, Side, Exterior. The area extending the full length of the lot in the area between the side adjacent to right of way and the side building line.

Yard, Side. A yard extending the full length of the lot in the area between the side lot line and the side building line.

Yard, Rear. A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Chapter 2.2 Residential Districts

2.2.3 Building Setbacks

A.1.a. A minimum setback of 20 feet is required for single-family uses, except that an unenclosed ***(covered or uncovered),*** porch may be within 15 feet, as long as it does not encroach into a public utility easement.

B. Building setbacks are measured from the ~~**foundation**~~ ***building line*** to the respective property line.

D. ***Unenclosed (covered or uncovered)*** porches, decks or similar structures may encroach into the front setbacks by no more than five feet, subject to the front yard setback provisions of "A".

Chapter 2.3 City Center District

2.3.3. Building Setbacks.

Footnote: Italics indicate new language; strikeouts indicate deleted language

Building setbacks are measured from ~~foundation~~ ***building line*** to the respective property line.

E. Oregon 99 Setbacks. All buildings within the Oregon 99 Setback Overlay Zone shall be set back no less than 15 feet from the Oregon 99 right-of-way line (see 2.10.2-Setback Requirement).

Chapter 3.2 Access and Circulation

3.2.2. Vehicular Access and Circulation

3.2.2.M. Vision Clearance Area. ***The vision clearance setback shall be measured from curb line or, where no curb exists, from edge of payment.***

3.2.2.M. Figure (Figure is attached)

Chapter 3.6 Signs

3.6.3. Definitions and Calculation Standards

3.6.3.E.1. Signs must comply with the sight visibility standards within the Development Code ***(see Chapter 3.2.2.M.)***

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 3: "Promote the efficient use and esthetic design of

Footnote: Italics indicate new language; strikeouts indicate deleted language

urban residential uses". The proposed language will make the addition of porches, particularly front porches, easier to achieve. These porches enhance the esthetic design of the home.

FINDING: The changes regarding the Highway 99 Zone corrects an inconsistency in the Code and is in compliance with Comprehensive Plan polices. The Zone was adopted following State Law but the corresponding requirement to comply with the Zone was not previously included in the Land Development Code.

FINDING: The changes proposed to the vision clearance standards are in compliance with Comprehensive Plan policies. Specifically, Housing Element, Goal 3: "Promote the efficient use and esthetic design of urban residential uses." The proposed language will make the use of residential land more efficient. The current requirements of 75 feet setback requires a significant portion of a residential lot to be left as yard with no structure and limited landscaping.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

FINDING: The proposed changes do not require any changes to be made on the part of the homeowner. The vision clearance changes clarify the options and allow the owner to make decisions about the design of the home and the use of more of the area of the lot.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed changes are not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed changes do not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The addition of covered, unenclosed porches on homes will have no transportation impact to the City transportation facility.

FINDING: The change of the vision clearance requirements will not significantly affect the transportation facility. The proposed vision clearance is consistent with the requirements of other cities within the region and will bring Phoenix in line with this norm.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Planning Commission recommends the adoption of the proposed amendments to the above listed sections of the Phoenix Development Code and the Phoenix Municipal Code.

Footnote: Italics indicate new language; strikeouts indicate deleted language

EXHIBIT B
CHAPTERS 1.3, 2.2, 2.3, 2.4, AND 3 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 952 ON JUNE 16, 2014, SHALL READ AS FOLLOWS:

Chapter 1.3 Definitions

Building line: The line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building foundation on the site.

Building setbacks: The distance between a building and a property line, measured from the closest point on the foundation to the property line. Typically, minimum and maximum setbacks may be required for front, side, exterior side, and rear of the building. See Chapter 2.2.3 Building Setbacks and Chapter 2.3.3 Building Setbacks.

Porch: an exterior appendage to a building, forming an approach or vestibule to doorway that is generally covered. Enclosed means the porch contains wall(s) that are more than forty-two (42) inches in height measured from finished floor level, for fifty percent (50%) or more of the porch perimeter. "Unenclosed" means the porch contains no such walls, but it may be covered

Yard: An open space on a lot which is unobstructed, except for fences, from the ground upward, except as otherwise provided in this Code.

Yard, Front. The yard extending the full width of the front of a lot between the front (street) right of way and the front building line.

Yard, Side, Exterior. The area extending the full length of the lot in the area between the side adjacent to right of way and the side building line.

Yard, Side. A yard extending the full length of the lot in the area between the side lot line and the side building line.

Yard, Rear. A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Chapter 2.2 Residential Districts

2.2.3 – Building Setbacks

Building setbacks provide space for private yards and building separation for fire protection/security, building maintenance, sunlight, and air circulation. This Section is also intended to promote human-scale design and traffic calming by downplaying the visual presence of garages along the street and encouraging the use of extra-wide sidewalks and pocket parks in front of markets and other non-residential uses. The standards encourage placement of residences close to the street for public safety and neighborhood security.

Building setbacks are measured from the building line to the respective property line (See Chapter 2.2.3 – Building Setbacks, Section D for exceptions.) Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following page and illustrated above, apply to primary structures as well as accessory structures. A Variance is required in accordance with Chapter 5.2 – Variances to modify any setback standard.

Temporary and prefabricated structures are not allowed in setbacks.

A. Front Yard Setbacks

1. Residential Uses (single-family, duplex and triplex, multi-family housing types).
   a. A minimum setback of 20 feet is required for single-family uses, except that an unenclosed (covered or uncovered), porch may be within 15 feet, as long as it does not encroach into a public utility easement.
   b. A minimum setback of 10 feet is required for multi-family uses. If garages face the street, then the garages must be set back 20 feet from the back of the sidewalk.
   c. When garages face the street, they shall be recessed behind the front elevation (i.e., living area or covered front porch) by a minimum of four feet and shall be setback 20 feet from the back of the sidewalk.
   d. Multi-family developments with over five units must be accessed from the rear.
   e. Multi-family housing shall also comply with the building orientation standards in Chapter 2.2.7 – Building Orientation.
2. Neighborhood Commercial Buildings. A minimum setback of 15 feet is required, except as necessary to comply with the vision clearance standards in Chapter 3.2.2 – Vehicular Access and Circulation, Section M. Parking is to be located to the rear of the building.
3. Public and Institutional Buildings. The standards in Subsection 2, above, (Neighborhood Commercial Buildings) shall also apply to Public and Institutional Buildings.

B. Rear yard Setbacks. Rear yard setbacks shall be a minimum of ten feet, (plus one half foot of setback for every foot of height of building over fifteen feet except when the requirement is waived by the decision-making body because the subject property is significantly downslope of the adjacent property to the rear). If a home is being remodeled, then any additional stories shall meet the setback requirements for buildings over 15 feet. Rear yard setbacks shall be determined using the definition of "Height of Building" in Chapter 1.3 – Definitions. Setbacks are based on the height of the building nearest to the rear property line.

C. Side yard setbacks. Side yard setbacks shall be a minimum of five feet, plus one half foot of setback for every foot of height of building over fifteen feet; provided, however, that side yards abutting a street shall be a minimum of fifteen feet in width. If a home is being remodeled, then any additional stories shall meet the setback requirements for buildings over 15 feet. Side yard setbacks shall be determined using the definition of "Height of Building" in Chapter 1.3 – Definitions. Setbacks are based on the height of the building nearest to the side property line.

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: Eaves, chimneys, bay windows, overhangs, and similar architectural features may encroach into setbacks by no more than three feet. Unenclosed (covered or uncovered) porches, decks and similar structures may encroach into front setbacks by no more than five feet, subject to the front yard setback provisions in "A". Walls and fences may be placed on property lines, subject to the standards in Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in Chapter 3.2.2 – Vehicular Access and Circulation, Section M.

E. Flag Lot Setbacks. A flag lot in a residential district shall comply with the setback requirements in 4.3.5 – Approval Criteria for Preliminary Plat, Section D.

Chapter 2.3 City Center District

2.3.3 – Building Setbacks

In the City Center District, buildings are placed close to the street to create a vibrant pedestrian environment, to slow traffic down, provide a storefront character to the street, and encourage walking. The setback standards are flexible to encourage public spaces between sidewalks and building entrances (e.g., extra-wide sidewalks, plazas, squares, outdoor dining areas, and pocket parks). The standards also encourage the formation of solid blocks of commercial and mixed-use buildings for a walkable City Center District.

Building setbacks are measured from the building line to the respective property line. Setbacks for porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following page, apply to primary structures as well as accessory structures. The standards may be modified only by approval of a Variance.

A. Front Yard Setbacks.

1. Minimum Setback. There is no minimum front yard setback required.
2. Maximum Setback. The maximum allowable front yard setback is 10 feet. The setback standard may be increased when a usable public space with pedestrian amenities (e.g., extra-wide sidewalk, plaza, pocket park, outdoor dining area or town square with seating) is provided between the building and front property line. (See also Chapter 2.3.9 – Pedestrian and Transit Amenities, and Chapter 2.3.8 – Architectural Guidelines and Standards for related building entrance standards.)

B. Rear Yard Setbacks.

1. Minimum Setback. There is no minimum rear-yard setback for structures except for alley-access lots (distance from building to rear property line or alley easement) in order to provide space for parallel parking.
2. Through-Lots. For buildings on through-lots (lots with front and rear frontage onto a street), the front yard setbacks in "A" shall apply.

C. **Side Yard Setbacks.** There is no minimum side yard setback required, except that buildings shall conform to the vision clearance standards and the applicable fire and building codes for attached structures, fire walls, and related requirements.

D. **Buffer Setbacks.** All buildings are subject to buffer requirements when commercial zoning is adjacent to residential zoning.

E. **Oregon 99 Setbacks.** All buildings within the Oregon 99 Setback Overlay Zone shall be set back no less than 15 feet from the Oregon 99 right-of-way line (see 2.10.2-Setback Requirement).

Chapter 2.4- Commercial Highway

2.4.3 – Development Standards

A. **Building Height.** Maximum building height is 50 feet. Building height is measured as measured in accordance with the definition of "Height of Building" in Chapter 1.3 – Definitions.

Where applicable, cornices (e.g., building tops or first-story cornices) shall be aligned to generally match the heights of those on adjacent buildings. Height transition or step-down required adjacent to residential development, where applicable.

B. **Yard Setbacks.** There is no minimum yard setback required, except that buildings shall conform to the vision clearance standards in 3.2.2 – Vehicular Access and Circulation, Section M and the applicable fire and building codes for attached structures, firewalls, and related requirements. (Setbacks for self-storage facilities are in Chapter 2.4.5 – Special Standards for Certain Uses, Section G.)

However, all buildings within the Oregon 99 Setback Overlay Zone shall be set back no less than 15 feet from the Oregon 99 right-of-way line (see 2.10.2-Setback Requirement).

C. **Lot Coverage.** The area covered by impervious surfaces shall be minimized to the greatest extent practicable; best practices for surface water management shall be required. (See the "Water Quality Model Code and Guidebook," DLCD and DEQ, 2000, or as may be amended.)

D. **Landscaping.** A minimum percentage of 20% landscaping is required. Landscaping shall meet the requirements of Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. A buffer may be required between abutting commercial/civic/industrial and residential sites, as determined through design review.

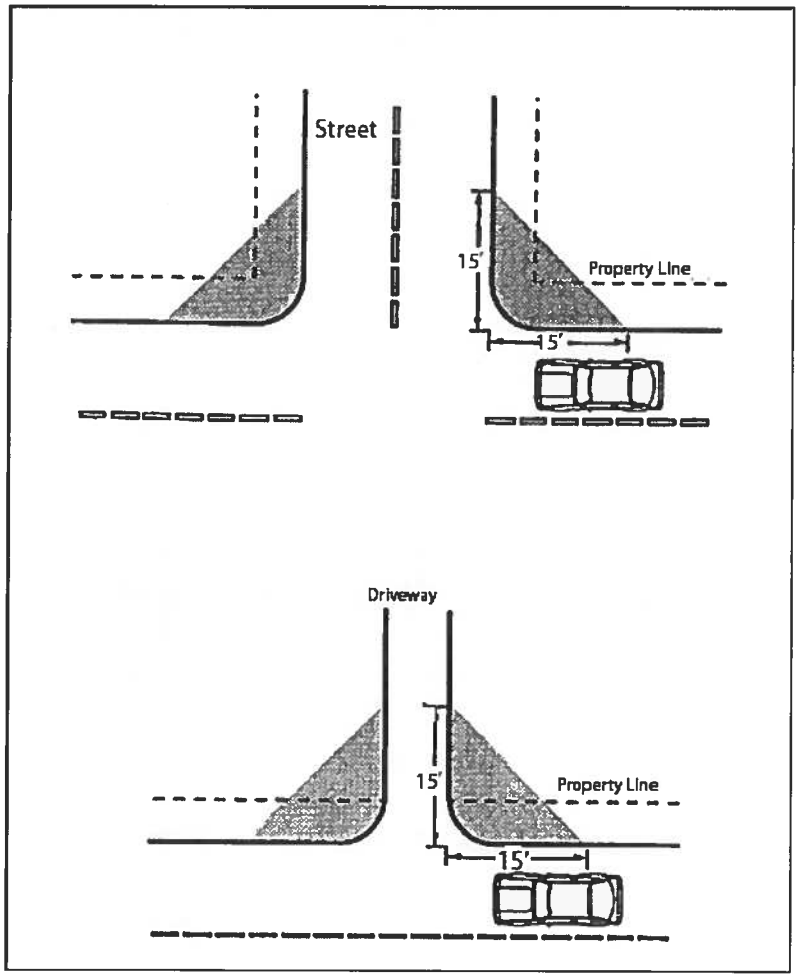
Chapter 3.2 – Access and Circulation

Sections:

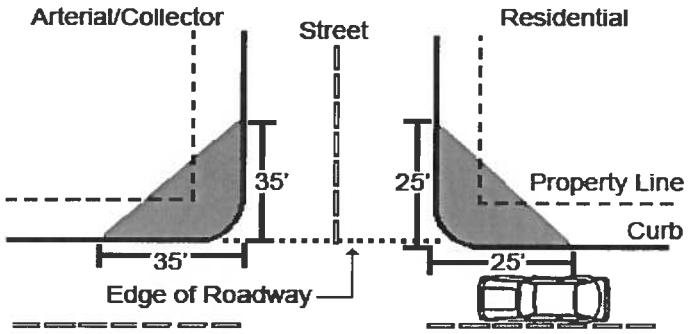
3.2.1 – Purpose
3.2.2 – Vehicular Access and Circulation
3.2.3 – Pedestrian Access and Circulation

3.2.2 – Vehicular Access and Circulation

M. Vision Clearance. The vision clearance setback shall be measured from curb line or, where not curb exists, from edge of pavement._No signs, structures, or vegetation in excess of three feet in height shall be placed in vision clearance areas, as shown below. The Planning Director may increase the minimum vision-clearance area upon finding that more sight distance is required (i.e., due to Police Department requirements, traffic speeds, roadway alignment, topography, etc.).



3.2.2.M – Vision Clearance Areas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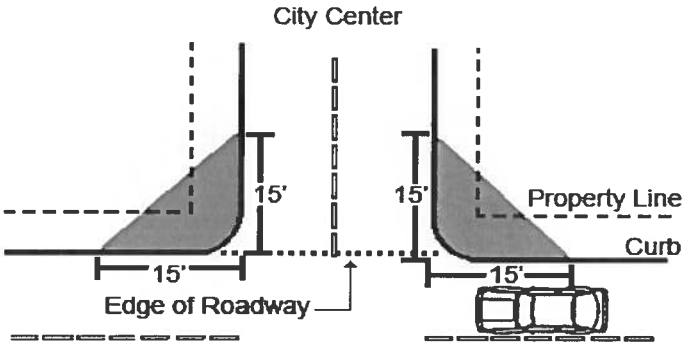
Edge of Roadway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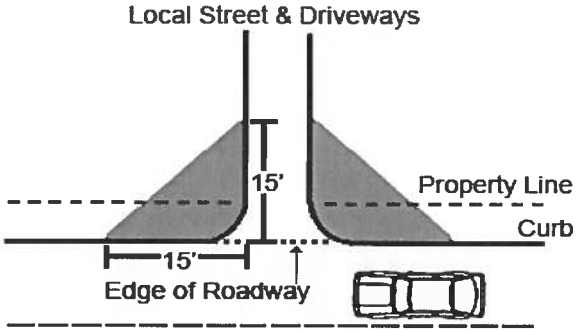
Local Street & Driveways
15'
Property Line
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3.6 – Signs

Sections:

3.6.1 – Purpose
3.6.2 – Sign Permits
3.6.3 – Definitions and Calculation Standards
3.6.4 – Prohibited Signs for All Districts
3.6.5 – Nonconforming Sign and Abandoned Signs
3.6.6 – Zoning District Sign Standards
3.6.7 – Sign Variance Criteria

3.6.3 – Definitions and Calculation Standards

For the purposes of calculation of all areas and distances under the sign standards, the following definitions and standards apply:

E. Vision Clearance and Safety Standards

1. Signs must comply with the sight visibility standards within the Development Code (see Chapter 3.2.2.M.)
2. The minimum clearance of all signs projecting over a pedestrian way shall be eight feet.
3. Clearance over vehicle use area. The minimum clearance of all signs projecting over any portion of a vehicle use area shall be 17 feet.