

Prineville Code of Ordinances
Chapter 155: Natural Features Overlay District (NFOD) & Slope Hazard Requirements

Highlighted text = additions or changes

Red Text = proposed deletions

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155.000 Purpose

This Chapter implements the Prineville Comprehensive Plan by protecting significant natural features and mitigating against potential natural hazards as mapped and described in the adopted Prineville Natural Features Inventory. The standards and density transfer provisions in this Chapter are intended to resolve conflicts between permitted urban development uses and significant natural features as evaluated in the Prineville ESEE (Economic, Social, Environmental, and Energy) Analysis.

155.010 Applicability

Significant natural features include surface water features, wildlife habitat areas, rimrock scenic areas, and the Barnes Butte scenic area. The Natural Features Overlay District applies only to significant natural features as described in the Prineville Natural Features Inventory and as mapped on the official Prineville Zoning Map. The Natural Features Overlay District covers:

1. Surface Water Features including:
 - 1.1. The Crooked River, Ochoco Creek, Hudspeth Drainage and Ryegrass Drainage riparian corridors (including associated wetlands and floodplain areas) within required setbacks;
 - 1.2. Hudspeth Reservoir and its required setback area;

- 1.3. Isolated Wetlands located outside of riparian corridors and their required setback areas; and
- 1.4. Dry washes and natural drainage ways and their required setback areas.
2. Wildlife Habitat Areas including:
 - 2.1. Wildlife habitat within surface water features and their respective setback areas;
 - 2.2. Wildlife habitat within the Barnes Butte and rimrock scenic areas; and
 - 2.3. Raptor nesting sites and their respective impact areas.
3. Rimrock Scenic Areas including:
 - 3.1. The rimrock face;
 - 3.2. The top-of-rimrock setback area; and
 - 3.3. The rimrock slope impact area.
4. Barnes Butte Scenic Areas including:
 - 4.1. Primary scenic area; and
 - 4.2. Secondary scenic area.

155.020 General Provisions

The Director shall be responsible for interpreting the provisions of this Chapter, periodically amending the Natural Features Overlay District on the City of Prineville Zoning Map to account for site-specific refinements, determining on-site measuring methods.

1. UGB Expansions. As the UGB expands the NFOD shall also expand along identified resources. UGB expansions may incorporate stricter standards on newly acquired land. Those standards shall be incorporated into this ordinance when the expansion is approved.
2. Development Approval Required. No development shall occur on property within the Natural Features Overlay District without first obtaining City approval under the provisions of this Chapter.
3. Subdivisions and Partitions. Any subdivision or partition shall be required to provide legal provisions that prevent development encroachment into required setbacks through easements, Common openspace dedications, dedications to the City or Parks and Recreation or other legal mechanism approved by the City.
4. Department of State Lands notification required. The Director shall notify the Oregon Department of State Lands (DSL) whenever development is proposed (or has occurred without prior notice) on a property with wetland, river or stream that appears on the Prineville Natural Features Inventory, as required by ORS 227.350.
5. Measurement and adjustment of required setback areas. Setbacks and impact areas are measured horizontally from and parallel to the outer boundary of the protected natural feature. Therefore, if the boundary of the natural feature changes, so does the required setback area.
6. The Director may hire, at the applicant's expense, a third-party expert to review specific plans and recommend additional mitigation measures. The choice of contact service

provider shall be at the discretion of the city. Costs shall be determined reasonable based on a comparison of at least three bids. An estimate of the costs shall be provided to the developer prior to contracting and the developer shall pay the cost to the city prior to proceeding with review of the application. The developer shall have the option of revising the proposal or withdrawing the application, with no refund of application fees, instead of paying the additional cost for third-party review.

7. Conflicts with other provisions. Where there are conflicts between the provisions of this Chapter and other adopted land use provisions, the more restrictive provision applies.
8. Choice of review procedures. Applicants for development of property that lies within or partially within the Natural Features Overlay District have two development review options.
 - 8.1. **Option 1**: An applicant may choose to avoid development within the Natural Features Overlay District entirely. Under this clear and objective option, the Director must determine the land area that is within the Natural Features Overlay District, by overlaying the Natural Features Overlay District map on the subject property. By choosing this option, the applicant may proceed with development on the remainder of the property without having to prepare special studies or further address the requirements of this Chapter. The Director may require site fencing and erosion control measures during construction.
 - 8.2. **Option 2**: Alternatively, an applicant may apply for limited development within the Natural Features Overlay District under the discretionary provisions of this Chapter. Under this option, the applicant is responsible for preparing special studies and addressing applicable review criteria prior to submitting a complete application to the City. The review authority (the Director, Planning Commission or City Council) may approve, approve with conditions, or deny a land use application based on the provisions of this Chapter. The review authority may require conditions deemed necessary to comply with the purpose and provisions of this Chapter, or the recommendations of required special studies.
9. Definitions. In addition to definitions found in Section 153.004, Definitions, the following natural features definitions apply. In cases of conflict, the definitions of this Section supersede the definitions in Section 153.004.
 - 9.1. **Development** means all human caused change to improved or unimproved real estate including but not limited to: buildings, fences, decks, placement or replacement of manufactured or other structures, parking and loading areas, landscaping, roadways, paved or graveled areas, grading, and areas devoted to storage of equipment and materials. Development does not include items specifically allowed by this chapter or minor structures such as picnic tables, bird feeders and other structures with a small footprint that are easily removed.
 - 9.2. **Director** means the Prineville Community Development Director, Planning Director, or designee.
 - 9.3. **Discretionary Review** requires judgment by the review authority. Discretionary review is required when the applicant chooses not to meet clear and objective review

standards that limit development within a natural feature, required setback area or impact area.

- 9.4. **Impact Area** means an area described in the Prineville Natural Features Inventory that requires one or more special studies to determine the conditions under which limited development may be approved.
- 9.5. **Prineville Natural Features Inventory (NFI)** means the inventory of significant natural features, showing required setback areas and impact areas, adopted by the Prineville City Council as an appendix to the Prineville Comprehensive Plan.
- 9.6. **Prineville Economic, Social, Environmental, and Energy (ESEE) Analysis** means the analysis of economic, social, environmental and energy consequences of alternative levels of resource protection, adopted by the Prineville City Council as an appendix to the Prineville Comprehensive Plan.
- 9.7. **Review Authority** means the person or group making land use decisions on behalf of the City of Prineville. The review authority may be the Director, the Planning Commission, or City Council depending on the level of discretion and complexity of the application.
- 9.8. **Required Setback Area** means the area between the edge of a significant natural feature itself and the setback line where development is prohibited. The setback line is measured horizontally from the boundary of the natural feature.
- 9.9. **Rimrock Setback** means the area measured horizontally from the top of rimrock cliff or significant break in slope where development is prohibited.
- 9.10. **Riparian Area** means the area adjacent to a river, lake, or stream consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
- 9.11. **Riparian Corridor Boundary** means an imaginary line that is a certain distance upland from the top of bank as specified in this document.
- 9.12. **Significant Natural Feature** means a natural feature as described and mapped in the Natural Features Inventory *and* mapped on the Prineville Zoning Map.
- 9.13. **Top-of-bank** means the two-year recurrence interval flood elevation.
- 9.14. **Water-dependent or related use** means a use that requires location on or near a waterway to fulfill their basic purpose.
- 9.15. **Wetland Definitions:**
 - 9.15.1. **Associated Wetland** means a significant wetland that appears on the Natural Features Inventory that is totally or partially located within 50 feet of the top-of-bank of a fish bearing river, creek or lake.
 - 9.15.2. **Isolated Wetland** means a wetland that appears on the Natural Features Inventory that is *not* totally or partially located within 50 feet of the top-of-bank of a fish bearing river, creek or lake.

155.030 Exemptions

This Section lists six exemptions from the provisions of this Chapter.

- 1. Maintenance of existing landscaping. Maintenance of existing ornamental landscaping or continuation of existing farming activities that were otherwise permitted prior to the effective date of this Chapter shall be exempt from the requirements of the Natural Features Overlay District.
- 2. Setback adjustments. In limited circumstances, required setbacks may be modified based on site-specific studies, as determined under the applicable standards of this Chapter. Once a setback area adjustment has been approved by the Director, the applicant may proceed with development of the remainder of the property outside the adjusted setback area as provided under Section 155.020.
- 3. Master Plans. Public facility Master Plans for sanitary sewer, water, stormwater, streets or parks & recreation may be adopted with deviations to the standards of this chapter when found to be in the best interest of the public.
- 4. Approved land use applications. Land use applications approved prior to the effective date of this Chapter shall be subject to any City and Department of State Lands conditions of approval, but shall *not* be subject to further review under this Chapter. This general exemption does *not* apply, however, to:
 - 4.1. Barnes Butte scenic area development and design standards (Section 155.090), which apply to land division and building permit applications that implement any approved Outline Development Plans (ODP); *or*
 - 4.2. Land use approvals that have expired.
 - 4.3. If compliance with the provisions of this chapter requires modifications to an approved ODP, then the ODP modification may be approved through a Type III (public hearing before Planning Commission) procedure.
- 5. City development agreements. The provisions of any development agreement with the City approved prior to the effective date of this Chapter shall prevail over the provisions of this Chapter, with the exception of any regulation related directly to public health and safety.
- 6. Irrigation maintenance. Normal maintenance of drainage facilities, utilities and irrigation pumps is exempt from the provisions of this Chapter.

155.040 Land Uses and Review Procedures Anywhere within the Natural Features Overlay District

This Section lists uses, activities and determinations that may be permitted anywhere within the Natural Features Overlay District. Sections 155.060 – 155.090 refine the list of uses, activities and determinations, depending on the type of natural feature (surface water, wildlife habitat, scenic rimrock areas or the Barnes Butte scenic area). Review of development requests within the Natural Features Overlay District shall occur subject to the following procedures. Unless otherwise indicated below, the Director may approve Type I permits over the counter or following a field check. Type II and III development applications shall be reviewed to ensure consistency with recommendations in required special plans.

1. Uses permitted under Type I procedure. The following uses, activities and determinations shall be reviewed under a Type I procedure (administrative review by the Director without public notice) anywhere within the Natural Features Overlay District:
 - 1.1. A determination that all or a portion of a property is within the Natural Features Overlay District boundary, pursuant to Section 155.020.5.
 - 1.2. Planting of native plant species.
 - 1.3. Removal of permitted landfill.
 - 1.4. Removal of non-native / invasive vegetation, or dead or dying vegetation that is hazardous to the public as determined by the Director. The Director may seek the advice of the City Engineer or a professional arborist in making a decision.
 - 1.5. Construction or expansion of major public facilities identified in sanitary sewer, water, stormwater, street or parks master plans or of minor public **or private** facilities necessary to support development, subject to the provisions of Sections 155.060 through 155.090, **provided they are designed and constructed to minimize intrusion into the riparian area.**
 - 1.6. Construction or expansion of pedestrian or equestrian trails as set forth in adopted park and recreation master plans, or as approved under a type III procedure with public access, **provided they are designed and constructed to minimize intrusion into the riparian area.**
2. Uses permitted under Type II procedure. The following uses, activities and determinations shall be reviewed under a Type II procedure (administrative review by staff with public notice and right of appeal to Planning Commission) anywhere within the NF Overlay Zone:
 - 2.1. **Replacement of a lawfully existing building, that does not further encroach into the natural feature overlay zone, provided there is no change of use and it is located outside the floodway. In the event that a structure cannot be replaced outside the floodway, the building and site shall be constructed as stated in 151.22 with FEMA review.**
 - 2.2. Repair and stabilization of unstable slopes. If emergency slope stabilization is required and authorized by the City Engineer, Type II review shall be required within 60 days of having taken the emergency action.
 - 2.3. Development requests that are similar in scope and impact to Type II uses listed above, as determined by the Director. The Director shall include the justification for the classification decision in the required notice to affected property owners.
3. Type III procedure. In addition to its normal quasi-judicial review functions, the Planning Commission shall be responsible for reviewing appeals and referrals of Type II (Planning Director) decisions under Type III procedure (public hearing before Planning Commission with notice and right of appeal to City Council). Applications for planned unit developments and land divisions within the Barnes Butte primary and secondary scenic areas are also reviewed by the Planning Commission pursuant to Section 155.090.
4. Type IV procedure. Following a public hearing and recommendation from the Planning Commission, the City Council shall review legislative and quasi-judicial proposals to add or

remove significant natural features identified in the Prineville Natural Features Inventory, or to amend the Prineville ESEE Analysis, the provisions of this Chapter, or the Prineville Zoning Map.

155.050 Application Requirements within the Natural Features Overlay District

In addition to other requirements of this Code and required special studies, the applicant for alteration or development within the Natural Features Overlay District shall be responsible for preparing a survey of the entire site, based on site-specific field surveys, that precisely maps and delineates the following areas:

1. The Natural Features Overlay District boundary as it affects land within and adjacent to the subject property.
2. All significant natural features within the Natural Features Overlay District boundary, including their respective impact areas and setback areas, as shown on the Natural Features Inventory and described Section 155.010.
3. The 100-year floodplain and floodway boundaries as determined by current FEMA floodplain maps or, if FEMA floodplain data are *not* available, based on the best available information.
4. Existing and proposed contours at 2-foot intervals, emphasizing slopes of 18% - 25% and slopes of 25% and greater.
5. Native and non-native vegetation, including trees or tree clusters and understory within the Natural Features Overlay District boundary. In areas with no proposed development, tree and understory canopy outlines may be shown, and species composition listed.
6. Existing artificial features, including public rights-of-way, structures, roads and utilities.
7. Proposed development, including the precise location and dimensions of any proposed development.

155.060 Surface Water Features

1. Purpose. The purpose of this Section is to protect and enhance significant surface water features and their respective riparian areas while allowing for efficient urban development outside required setback areas. **To minimize impacts to the resource, Planned Unit Developments and Cluster Developments are encouraged.**
2. Type I Permitted Uses. In addition to uses and activities listed in Section 155.040 the following uses are permitted within surface water feature setback areas.
 - 2.1. Native landscaping such as trees, shrubs and grasses and limited access that does not alter the floodway by increasing elevations or diverting floodwaters.



The eastern (upstream) reach of Ochoco Creek flows through grasslands and developed areas.

- 2.2. Fencing, decks, patios & public trails may be allowed within the required 50ft. setback of Ochoco Creek & associated wetlands on existing residential lots as of the effective date of this chapter, provided they are outside the riparian area and not less than 25ft. from the top of bank.
- 2.3. Fencing within Dry Wash/Natural Drainage setbacks (numbers 8 & 9 in table 155.1) that utilizes materials that do not restrict the natural flow of water or debris and which is located outside other identified resources.
3. Type II Permitted Uses. The Director may approve the following permitted uses within surface water features and their respective setback areas under Type II procedure (review by the Director with public notice). Permitted uses listed below are subject to specific review standards in this Section.
 - 3.1. Construction of water-dependent or water-related uses including necessary access.
 - 3.2. Construction, expansion or replacement of a new single-family residence within a required setback area on a legal lot as a hardship adjustment.
 - 3.3. Development requests that are similar in scope and impact to Type II uses listed above, as determined by the Director. The Director shall include the justification for the classification decision in the required notice to affected property owners.
4. Required setback areas. At a minimum setback areas shall be required to protect significant surface water features and their riparian areas from development impacts, and to protect approved development from potential natural hazards. Setbacks are measured horizontally from and parallel to the boundary of the protected surface water feature, as indicated in Table 155.1.

TABLE 155.1: REQUIRED SURFACE WATER SETBACK AREAS

Surface Water Feature	Location	Measured From	Distance
Required Setback from Water Features			
1. Floodway	Within UGB	Flood Insurance Rate Map	As Surveyed
2. Crooked River	Outside City Limits as of December 31, 2008	Top of river bank or edge of associated wetland	100 feet
3. Hudspeth Reservoir	Within UGB	Ordinary high water line	100 feet
4. Crooked River	Within City Limits as of December 31, 2008	Top of river bank or edge of associated wetland	50 feet
5. Ochoco Creek	Within entire UGB	Top of river bank or edge of associated wetland	50 feet
6. Hudspeth Drainage	Within entire UGB	Top of river bank or edge of associated wetland	50 feet
7. Ryegrass Drainage RG-B	Within entire UGB	Top of river bank or edge of isolated wetland	25 feet
8. Isolated Wetland	Within entire UGB	Edge of wetland	25 feet
9. Dry Wash/Natural Drainage	Within entire UGB	Centerline of ravine	50 feet
10. NE Ryegrass Drainage	Within entire UGB	Centerline of ravine	50 feet

Figures 155.1 – 155.4 illustrate the required setbacks listed in Table 155.1.

Figure 155.1 Crooked River & Associated Wetland Setbacks

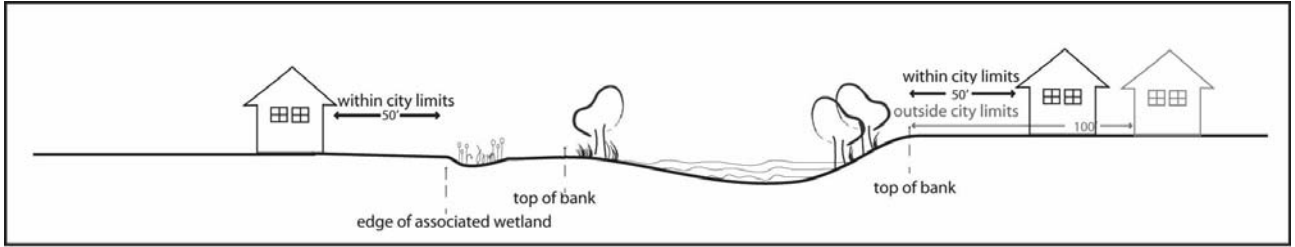


Figure 155.2 Ochoco Creek and Associated Wetland Setbacks

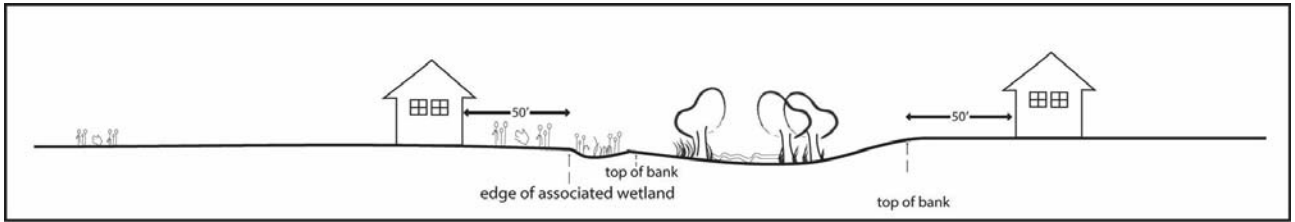


Figure 155.3 Hudspeth Reservoir & Dry Wash/Natural Drainage Setbacks

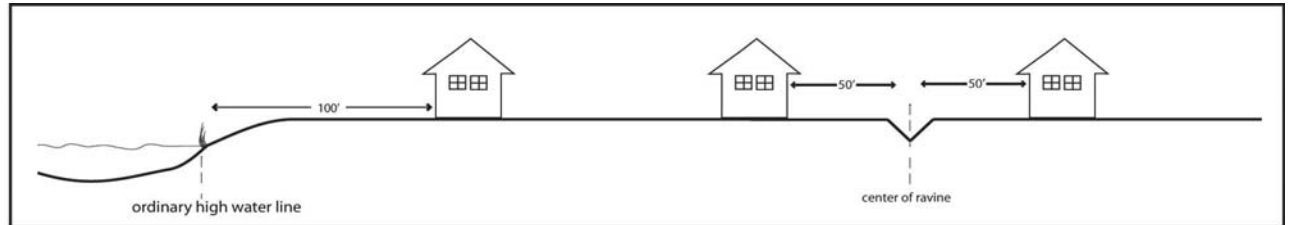
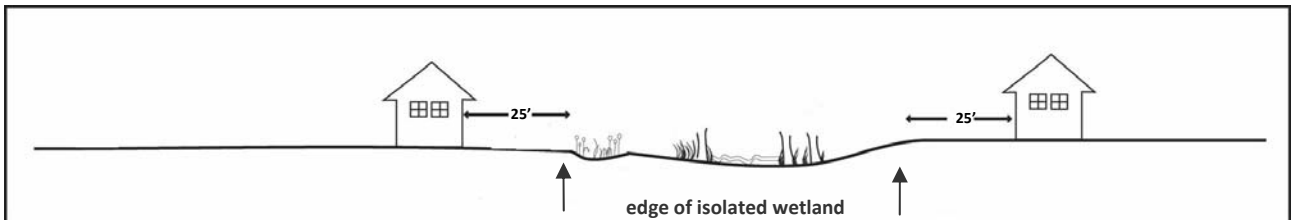


Figure 155.4 Isolated Wetlands



5. **Natural Features Inventory Map refinement process.** The location of the Natural Features Overlay District was based on generalized maps for the Prineville urban area found in the Natural Features Inventory. This Section provides a process for refining this generalized map based on site-specific, expert analysis.
 - 5.1. The precise location of some surface water features – and their respective setback areas – may be refined based on site-specific wetland delineations or engineering studies.
 - 5.2. Map refinements may be approved separately by the Director under Type II review procedure, or as part of a consolidated land use application. Map refinements do *not* require an amendment to the adopted Natural Features Inventory.

- 5.3. Refinement of the location of an isolated or associated wetland shown in the Natural Features Inventory must be based on a formal wetland delineation and survey with written concurrence by the Department of State Lands.
- 5.4. Refinement of the location of top-of-bank of a river, creek, drainage or ditch must be based on a survey prepared by a surveyor licensed by the State of Oregon.
- 5.5. The City of Prineville will maintain a record of Natural Features Inventory map refinements and will establish a regular schedule for updating the Prineville Zoning Map, through a quasi-judicial process, to incorporate new data and include annotations identifying local land use decision case number or Department of State Lands wetland delineation concurrence case number.
6. Riparian corridor setback adjustments. ~~Requests for setback reductions may be approved separately by the Director under Type II review procedure, or as part of a consolidated land use application.~~ Setback adjustment for common open space amenities including public trails, parks, covered areas, fenced areas, decks, patios, viewing areas and the like may be approved as part of any development under a Type III review procedure. Except for isolated wetland setbacks, the required setback distances in Table 155.1 may be reduced by *not* more than 50% when all of the following criteria are met.
 - ~~6.1. The setback area proposed for reduction (where development would be allowed) shall not include land within the 100-year floodplain or land with slopes of 25% or greater with the following exception:~~ Alterations within the floodway shall not result in any increase in flood levels during the occurrence of the base flood discharge as certified by a registered professional civil engineer.
 - ~~6.1.1. Unenclosed non-habitable space for patios, decks or viewing areas that enhance —public access and viewing of the resource.~~
 - 6.2. Riparian vegetation within the majority of the required setback area on the subject property has been highly degraded, and the degradation resulted from lawful activities that took place before August 1, 2008. The required setback area is considered highly degraded if:
 - 6.2.1. The combination of existing structures, impervious surface areas, and non-native (invasive) plant species occupy more than 50% of the required setback area; *and*
 - 6.2.2. The existing tree canopy covers less than 50% of the required setback area.
 - 6.3. The remaining setback area will be restored and enhanced with native plants, such that the riparian corridor will function at a substantially higher level than under current conditions.
 - 6.3.1. To address this criterion, the applicant shall be responsible for preparing a riparian vegetation restoration plan.
 - 6.3.2. The plan must be prepared by a landscape architect, landscape designer, botanist, arborist or other qualified professional accepted by the City with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation.

- 6.3.3. The plan must provide for the planting and long-term maintenance of native plants within the remaining setback area – including trees, understory and herbaceous layers.
 - 6.3.4. The Director may incorporate selected measures as conditions of approval in the final decision.
 - 6.3.5. The applicant shall be responsible for replacing any native plant species that do *not* survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement. The City may require a bond or other assurances to guarantee compliance.
 - 6.3.6. The applicant shall grant a riparian corridor conservation easement to the city that covers the remaining setback area.
7. Isolated wetland setback reductions. The required 25 foot setback for isolated wetlands shown on the Natural Features Inventory may be reduced by the Planning Commission under a type III review process based on a formal delineation with Department of State Lands concurrence.
8. General development standards. Uses listed in Sections 155.040 and 155.060, and permitted under Type II procedure, must meet the following standards:
 - 8.1. As a general standard, native vegetation shall be preserved and enhanced – and excavation avoided or minimized – within significant surface water features and their required setback areas.
 - 8.2. The applicant must demonstrate that no practical alternatives exist for the proposed use outside of the protected surface water feature or its required setback area, and that the site selected has the least impact on water quality, water storage capacity, wildlife habitat and native vegetation.
 - 8.3. The applicant shall prepare an impact mitigation plan that considers potential adverse impacts to water quality, water storage capacity, wildlife habitat and native vegetation, and recommends effective mitigation measures.
 - 8.4. The Director may contract with a third-party expert to review the application and impact mitigation report and make recommendations, at the applicant’s expense, to reduce identified adverse impacts.
 - 8.5. The Director shall incorporate selected measures as conditions of approval in a decision to approve the application.
9. Hardship adjustment for a single-family home on a legal lot. This option applies in situations where it is impossible to construct a usable home on an existing legal lot in a zone that allows residential uses due to surface water setback regulations. All of the following standards must be met to grant a special hardship adjustment to allow construction or expansion of a single-family home within a surface water feature setback area required by the Natural Features Overlay District:
 - 9.1. The applicant must demonstrate that the lot has received planning approval from either Crook County or the City of Prineville and that there is insufficient buildable land on the same lot to allow the proposed construction or expansion.

- 9.2. All other applicable standards of this Chapter have been fully satisfied.
- 9.3. The residence or addition has been sited so as to:
 - 9.3.1. Minimize excavation and disturbance to native vegetation in the required setback area; *and*
 - 9.3.2. Be as far as reasonably possible from the surface water feature itself.
- 9.4. The maximum impervious surface coverage resulting from development on restricted development areas shall be 2,000 square feet.
- 9.5. The option of an adjustment under Section 155.110 has been considered as a means of avoiding or minimizing impacts on restricted development areas.
- 9.6. Development shall *not* result in cuts or fills in excess of 3 feet except for basement construction unless approved by the Director under Type II procedure.
- 10. Riparian area restoration. Riparian area restoration is encouraged. Restoration above top of bank or edge of wetland must follow the recommendations of a riparian restoration plan approved under Type I procedure by the Director. This plan must be prepared by specialists in the fields of stream morphology, water quality and riparian vegetation approved by the Director. Restoration below top of bank or within a wetland shall be approved by the appropriate State & Federal agencies.
 - 10.1. The plan shall include monitoring provisions over a 2-year period to ensure long-term plant survival.
 - 10.2. The plan must achieve at least one of the following objectives:
 - 10.2.1. Remove invasive vegetation and replace it with multi-layered native vegetation that provides for stream shading along the stream bank;
 - 10.2.2. Reduce the steepness of the bank along reaches that have been highly eroded or the velocity of water carried by the stream.



Prairie falcons nest on Barnes Butte.

155.070 Wildlife Habitat

- 1. Purpose. The purpose of this Section is to protect significant wildlife habitat areas associated with surface water features and their respective setback areas, within steeply sloped portions of the Barnes Butte scenic area, and within rimrock scenic areas. This Section also includes standards to identify and mitigate impacts from development near inventoried raptor nesting sites.
- 2. Permitted uses. Permitted uses within identified wildlife habitat areas depend on where the wildlife habitat is located.
 - 2.1. Uses permitted in wildlife habitat associated with surface water features and their respective setback areas are those listed in Sections 155.040 and 155.060.

- 2.2. Uses permitted in wildlife habitat within the rimrock slope setback, top-of-rimrock setback and on slopes of 25% or greater within the Barnes Butte scenic areas are those listed in Section 155.040, except as provided in Section 155.080(5).
- 2.3. Uses permitted in the habitat raptor nesting impact areas are those listed in the underlying zoning district, but are subject to the provisions of Section 155.070.
3. Required setback areas. There are no special wildlife habitat setback areas. See Sections 155.060 and 155.080 for surface water resource and rimrock setback requirements.
4. Native vegetation. Native vegetation provides high desert wildlife habitat and shall be protected:
 - 4.1. Within significant surface water features and their setback areas;
 - 4.2. Within raptor nest impact areas, where recommended by the Oregon Department of Fish and Wildlife (ODFW);
 - 4.3. On slopes of 18% or greater within the Barnes Butte Primary and Secondary Scenic Areas; *and*
 - 4.4. Within significant rimrock scenic areas shown on the Natural Features Inventory.
5. Wildlife habitat impact mitigation plan. If development is proposed within protected wildlife habitat areas described in Section 155.070.2, a wildlife habitat impact mitigation plan shall identify adverse impacts from proposed development on wildlife habitat, and recommend measures to mitigate such impacts.
 - 5.1. The wildlife habitat impact mitigation plan shall be prepared by a wildlife biologist with expertise in high desert wildlife conditions.
 - 5.2. If the use is permitted under Type II procedure, the Director may incorporate selected measures, as conditions of approval, in the decision to approve the application.
 - 5.3. If the use is permitted as part of a consolidated Type III land use application, the Planning Commission – should it decide to approve the application – may incorporate selected measures as conditions of approval.
6. Raptor nest impact area review criteria. An applicant proposing to develop land within a quarter mile of an inventoried raptor nesting site shall coordinate with ODFW in the preparation of a wildlife habitat impact mitigation plan. The plan shall be prepared using the best available science, prior to submitting a development application. The plan shall include measures that minimize the likelihood of nesting site disturbance or abandonment by considering the following potentially adverse impacts from:
 - 6.1. Construction activities during the nesting season;
 - 6.2. Impacts from new roads, driveways, and public trails;
 - 6.3. The loss of existing vegetation or other landscape features that obscure the view of the nest from the proposed development;
 - 6.4. Land divisions and permanent urban development; *and*
 - 6.5. Exterior lighting.
7. Raptor nest impact mitigation plan review process. If the applicant and ODFW reach agreement on an effective impact mitigation plan, the Director shall approve the plan under

Type I procedure and condition development approval on compliance with mitigation recommendations in the plan.

7.1. If the applicant and ODFW do *not* reach agreement on the plan, the Director shall:

- 7.1.1. Contract with a third-party wildlife biologist, at the applicant’s expense, to review the matter and make recommendations regarding effective measures to address Sections 155.070.6.1 through 155.070.6.5, above; *and*
- 7.1.2. Refer the matter to the Planning Commission for review under Type III procedure.

155.080 Rimrock Scenic Area

- 1. Purpose. The Prineville Comprehensive Plan recognizes the critical importance that the rimrock plays in defining community character and livability. The purpose of this Section is to protect scenic rimrock and sloped areas from adverse visual impacts resulting from development on or above the face of the rimrock bluff and the slope below. This Section also includes standards to protect development from rock fall, erosion and slide hazards.
- 2. Rimrock setback areas. The setback from the top-of-rimrock is incorporated into this Section from existing city and county (Ordinance 18, Section 4.210) regulations. Table 155.2 summarizes the top-of-rimrock and rimrock slope setbacks. The top-of-rimrock and rimrock slope setback areas are mapped on the Prineville Natural Features Inventory.



The Crooked River Rimrocks provide a dramatic southern backdrop to the city.

TABLE 155.2: RIMROCK SETBACK AREAS

Natural Feature	Location	Measured From	Distance
Top-of-Rimrock Setback Area			
Rimrock	Within entire UGB	Top-of-Rimrock cliff or significant break in slope (~25% slope)	200 feet
Rimrock Slope Setback Area			
Rimrock & Slope	Within entire UGB	Top-of-Rimrock cliff or significant break in slope (~25% slope)	500 feet

Figures 155.5 and 155.6 illustrate rimrock setback areas shown on Table 155.2

Figure 155.5 Top of rimrock and Rimrock slope Setback (defined rimrock)

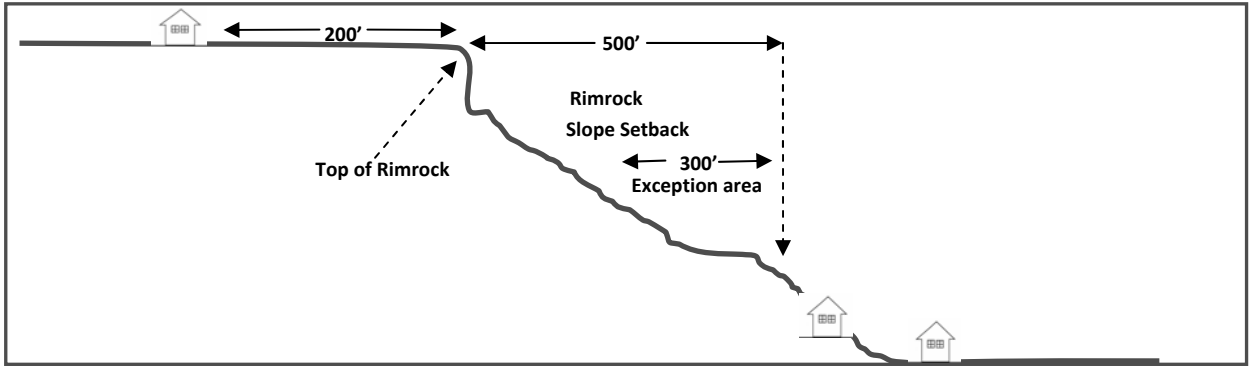
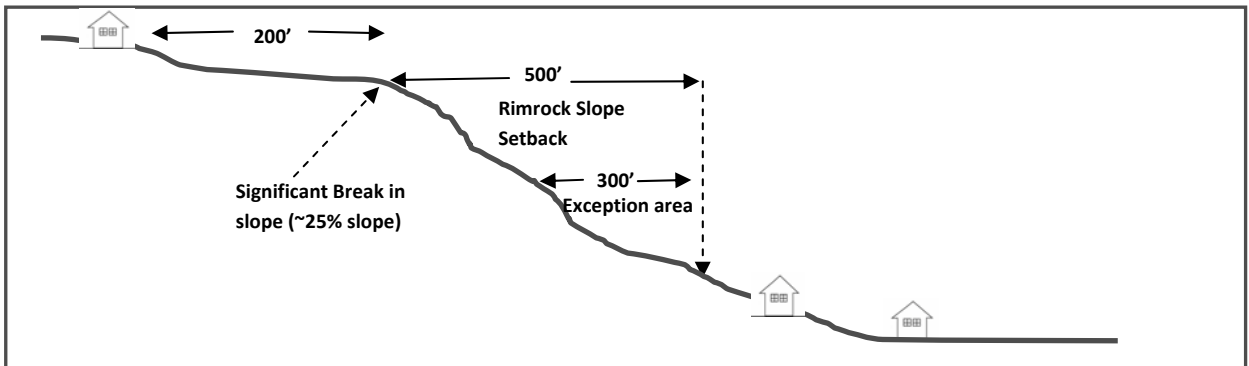


Figure 155.6 Top of rimrock and Rimrock slope Setback (no defined Rimrock)



2.1. Mapping. The top of rimrock was mapped using aerial photography. In some cases a defined top of rimrock does not exist. Where gaps occurred the top of rimrock line was determined as measured from top to bottom; where a significant break in slope occurred at ~25 % or greater (Figure 155.6.) The break in slope was determined using aerial photography, 5ft. contour intervals and 10 meter Digital Elevation Models.

2.2. Setback Adjustments.

2.2.1. Top of rimrock line. Adjustments may be approved separately under a type III review procedure, or as part of a consolidated land use application reviewed by the Planning Commission. An applicant shall submit a map prepared by a surveyor licensed by the State of Oregon delineating the top of rimrock or proposed break in slope versus the mapped Natural Features Overlay District boundary. The line shall not be moved if it is determined by the Planning Commission to circumvent the purpose of the setback.

2.2.2. Rimrock slope setback. The City recognizes that in some cases where the slope is very steep; a 500' setback will include the entire slope and some ground beyond the slope. Unless otherwise determined by an Urban Growth Boundary Expansion the following shall apply:

2.2.2.1. Development below the base of slope clearly outside the resource will be reviewed as required by the underlying zone and not subject to the setback. Development on the slope shall be reviewed under a type III procedure to consider the scenic value.

3. Permitted uses. Are those listed in Section 155.040 as uses permitted under Type I & II procedure *and* are subject to development standards in this Section.
 - 3.1. Uses permitted by the Planning Commission as an exception or variance to the required setback subject to the development standards in this section.
4. Development Exceptions.
 - 4.1. Within 200-foot top of rimrock setback. The following exception may be approved through a Type III review by the Planning Commission:
 - 4.1.1. **Communication facilities operated for the sole use by public agencies.**
 - 4.2. Within 500-foot rimrock slope setback. The following exception may apply:
 - 4.2.1. Development on land within the last 300 feet (fig. 155.5 & 155.6) on slopes of < 18% shall be approved as a variance under a type III review process. Scaring from roads, driveways and other infrastructure shall be minimized to the greatest extent possible and considered a high priority in the review of such a development. Development shall be subject to the following:
 - 4.2.1.1. Recommendations of a geotechnical study prepared by a registered engineer licensed in the State of Oregon.
 - 4.2.1.2. The study shall, at a minimum, consider slope stability on the talus debris slope and the potential for structural damage or personal injury resulting from slides, erosion and rock fall.
 - 4.2.1.3. The study shall also include recommended mitigation measures.
 - 4.2.2.4 The development shall be subject to the design and development standards for secondary scenic areas set forth in Section 155.090, Barnes Butte Scenic Area.
 - 4.3. Additions. Additions to existing homes or new accessory structures within the rimrock slope setback may be permitted without a geological study, provided that the property owner signs and records a waiver holding the city harmless from future damage to persons or property resulting from slides, erosion or rock fall.
5. Development Standards.
 - 5.1. If a use is permitted under Type II procedure, the Director shall incorporate selected measures, as conditions of approval, in the decision to approve the application.
 - 5.2. If a use is permitted as part of a consolidated Type III land use application, the Planning Commission – should it decide to approve the application – shall incorporate selected measures as conditions of approval.
6. Hardship adjustment for an otherwise unbuildable legal lot. This option applies in situations where it is impossible to construct a usable home on an existing legal lot-of-record in a zone that allows residential uses due to the 500' rimrock slope setback. All of the following standards must be met to grant a special hardship adjustment to allow construction or expansion of up to one single-family home for every five acres of restricted area required by the Natural Features Overlay District:

- 6.1. The applicant must demonstrate that the lot has received planning approval from either Crook County or the City of Prineville and that there is insufficient buildable land on the same lot to allow the proposed construction or expansion.
- 6.2. All other applicable standards of this Chapter have been fully satisfied.
- 6.3. The home has been sited, or the homes have been clustered, in areas with slopes of less than 30 percent.
- 6.4. Excavation for roads, utilities and home construction has been designed and located so as to minimize:
 - 6.4.1. Impacts to scenic views; and
 - 6.4.2. Potential slide hazards and rock fall impacts, consistent with the recommendations of the required geotechnical study.
- 6.5. The maximum impervious surface coverage resulting from each permitted house within restricted development areas shall be 2,000 square feet; and
- 6.6. The option of an adjustment under Section 155.110 has been considered as a means of avoiding or minimizing impacts on restricted development areas.

155.090 Barnes Butte Scenic Area

1. Purpose. Barnes Butte defines Prineville's eastern boundary and serves as a scenic backdrop for the entire community. The purpose of this Section is to protect this signature scenic feature while allowing for carefully planned urban development on moderate slopes (as defined in this Section) inside the Urban Growth Boundary. The Natural Features Inventory identifies two levels of scenic significance (primary and secondary) that require two levels of protection.
2. Permitted and discretionary uses. Permitted uses in the Barnes Butte primary and secondary scenic areas are those authorized by an approved Outline Development Plan and uses listed in Section 155.040. Development is limited by development and design standards in Section 155.090.4.
 - 2.1. Outline Development Plans and land divisions shall be reviewed by the Planning Commission under Type III procedure.
 - 2.2. The design and placement of individual buildings and structures in the primary and secondary scenic area shall be reviewed by the Director under Type I procedure.
3. Special reports required. Where development is proposed within the Barnes Butte primary or secondary scenic area, the Director shall require submission of one or more of the following special reports prepared by experts in their respective fields. These reports shall be in addition to other information required for specific types of development. The Director may exempt Type I & II permit applications from one or more of these reports where the



The view from the south and west shows Barnes Butte rising abruptly from the valley as a coherent and continuous landmass.

impacts are minimal and the exemption is consistent with the purpose of the Natural Features Overlay District as stated in Section 155.000.

- 3.1. **Hydrology and Soils report.** This report shall include information on the hydrological conditions on the site, the effect of hydrologic conditions on the proposed development, the proposed development's impact on surface and groundwater flows to wetlands and streams, and any hydrological or erosion hazards. This report shall also include soils characteristics of the site, their suitability for development, carrying capacity, and erosion or slumping characteristics that might present a hazard to life and property, or adversely affect the use or stability of a public facility or utility. Finally, this report shall include information on the nature, distribution and strength of existing soils; the adequacy of the site for development purposes; and an assessment of grading procedures required to impose the minimum disturbance to the natural state. A licensed professional engineer registered in Oregon shall prepare the hydrology and soils report.
- 3.2. **Grading plan.** All site development and building construction proposed ~~located~~ within the Barnes Butte Scenic Area shall submit grading plans which demonstrate a general conformance to existing topography. The grading plan shall be specific to a proposed physical structure(s) or use(s) and shall include information on terrain (two-foot intervals of property), drainage, direction of drainage flow, location of proposed structures and existing structures which may be affected by the proposed grading operations, water quality facilities, finished contours or elevations, including all cut and fill slopes, and proposed drainage channels. Project designs including but *not* limited to locations of roads, utilities surface and subsurface devices, walls, dams, sediment basins, storage reservoirs, and other protective devices shall form part of the submission. The grading plan shall also include a construction phase erosion control plan and schedule of operations. A licensed professional civil engineer registered in Oregon shall prepare the grading and erosion control plan. The City Engineer shall review and approve the grading plan.
- 3.3. **Native vegetation report.** This report shall consist of a survey of existing vegetative cover, whether it is native or introduced, and how it will be altered by the proposed development. Measures for re-vegetation with native plant species will be clearly stated, as well as methods for immediate and long-term stabilization of slopes and control of soil erosion. A landscape architect, landscape designer, botanist, arborist, or other qualified professional accepted by the City with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation shall prepare the vegetation report. The applicant shall be responsible for replacing any native plant species that do not survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement.
4. **Barnes Butte Scenic Area development and design standards.** The following standards apply to site development and building construction in the Barnes Butte primary and secondary scenic areas, as mapped on the Natural Features Inventory. The standards in

Section 4 may be modified by the Planning Commission, based on required studies and a joint finding by the City Engineer and Director, that the change will reduce adverse scenic impacts without increasing risks from slide or erosion hazards.

4.1. Development intensity and spacing.

4.1.1. Unless otherwise permitted by an Outline Development Plan approved prior to August 1, 2008, residential development shall *not* exceed a density of 2 units per gross acre in the secondary scenic area; *or* 1 unit per gross acre in the primary scenic area.

4.1.2. For lots with frontage on primarily north-south streets (*i.e.*, lots facing southwest, west and northwest that are visible from key viewing areas in Prineville):

4.1.2.1. Buildings and above ground structures shall occupy less than 50% of the cumulative width of the lot or block, as measured along the lineal street frontage; *and*

4.1.2.2. As part of any land division, building envelopes shall be placed on each lot to ensure this result.

4.1.3. Accessory buildings and structures shall be screened with non-invasive vegetation and shall meet applicable design and development standards of this Section.

4.1.4. The maximum building coverage on any lot shall *not* exceed 3,500 square feet.

4.2. Height Limit.

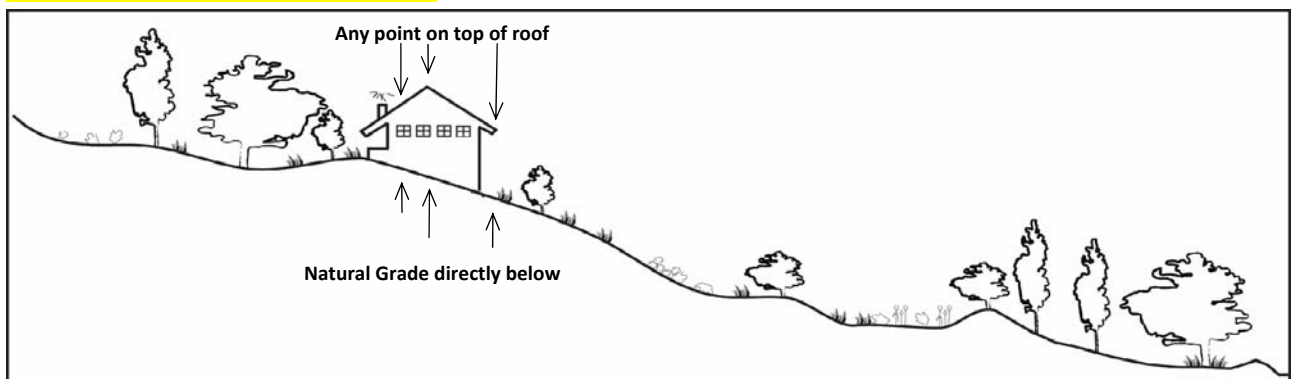
4.2.1. The maximum allowed height of any structure shall be:

4.2.1.1. 24 feet in the secondary scenic area; *and*

4.2.1.2. 18 feet in the primary scenic area.

4.2.2. Building height shall be determined by the vertical distance from any point on the top of the roof to the natural grade directly below that point of the roof.

figure 155.7 Method to Measure Height



4.2.2.1. Backfilling shall *not* affect the building height calculation.

4.3. Slope restriction.

- 4.3.1. Development on slopes of 18% or greater shall be subject to a geological analysis prepared by a licensed engineering geologist and/or geotechnical engineer and approved by the City Engineer.
- 4.3.2. Except for uses permitted under Section 155.040, development shall be prohibited on slopes of 25% or greater.

4.4. Grading and Drainage. All site development and lot grading shall be designed to follow the natural contours of the hillside while minimizing disturbance to natural topography and vegetation.

- 4.4.1. Grading plans shall clearly define surface drainage controls and mitigation measures. Such measures may include vegetated swales (*i.e.*, vegetated shallow depressions designed to catch surface drainage) and catch basins for both the construction and permanent conditions.
 - 4.4.1.1. Both existing and finished grades must be represented on each site plan, and each exterior elevation submitted for review.
 - 4.4.1.2. Grading plans shall include provisions for restoration of vegetation on cuts and fills. All manufactured slopes shall be planted with native, fire-resistant, drought-tolerant plantings to control erosion.
- 4.4.2. Hard edges left by cut and fill operations shall be contoured to match the natural terrain, and manufactured slopes adjacent to driveways and roadways should be modulated by re-grading and landscaping to create natural appearing streetscapes.
 - 4.4.2.1. The angle of any graded slope must be gradually transitioned to the angle of the natural terrain.
 - 4.4.2.2. Creation of new graded slopes which are more than 25% steeper than local natural slopes shall be minimized.
- 4.4.3. ~~All grading shall employ low impact development design strategies (University of Washington).~~
 - 4.4.3.1. Graded areas shall *not* be larger than the area of the footprint of the house, plus that area necessary to accommodate pedestrian and vehicle circulation and parking.
 - 4.4.3.2. Unless otherwise specifically approved by the City Engineer, cut and fill slopes shall be no steeper than two horizontal to one vertical and fill slopes shall not be placed on natural slopes steeper than 2:1
- 4.4.4. Cut and fill requirements are intended to ensure that new construction retains the existing landform of the site and follows natural contours. Table 155.3 below indicates the maximum graded cuts and fills permitted throughout the primary and secondary scenic area.

**TABLE 155.3 MAXIMUM GRADED
CUTS AND FILLS IN THE PRIMARY RESOURCE AREA**

Site Element	Cut	Fill
House and attached garage	8'	3'
Accessory Uses	4'	3'

- 4.4.5. All fill shall be compacted to standards approved by the City Engineer.
- 4.4.6. After construction, all disturbed areas shall be restored as closely as possible to their original (pre-development) state to minimize erosion.
- 4.4.7. To decrease erosion and loss of wildlife habitat, post development stormwater runoff from the site must *not* exceed pre-development runoff. Permanent stormwater controls such as vegetated swales, check dams, stormwater planters, cisterns, rain barrels, and rain gardens should be installed to capture and treat runoff from the site.
- 4.5. **Driveways and parking.**
 - 4.5.1. The maximum slope of a driveway shall *not* exceed 15% unless it can be demonstrated that a flatter driveway cannot be constructed without excessive grading (more than 4 feet of cut or 3 feet of fill).
 - 4.5.2. Driveways serving a single residence shall have a maximum width of 12 feet. To retain existing views and minimize cuts and fills, flexible street standards allowing narrow streets, sidewalks on one side of the street, parking bays and one-way loop systems may be required and/or approved by the review authority.
- 4.6. **Materials and colors.** Buildings including roofs and accessory structures shall use earth tone materials that complement colors found in native plants, soils and rocks in the area.
 - 4.6.1. Exterior windows, trim, and other exterior building materials (including gutters, downspouts, and flashing) shall be non-reflective.
 - 4.6.1.1. Exterior colors shall blend with the natural vegetation.
 - 4.6.1.2. Mirror-like window tinting is prohibited.
 - 4.6.2. The following materials are approved for use on exterior walls and trims:
 - 4.6.2.1. Wood (treated with semi-transparent or solid body stains or paints)
 - 4.6.2.2. Lap cement-based siding.
 - 4.6.2.3. Brick, natural and cultured stone - medium to dark colors.
 - 4.6.2.4. Textured masonry block must be of medium to dark colors.
 - 4.6.2.5. Earth toned stucco and synthetic stucco.
 - 4.6.3. All exterior metals and plastics (vents, flashing, gutters, etc.) must be screened from view, painted or treated to blend in with the adjacent surrounding material.

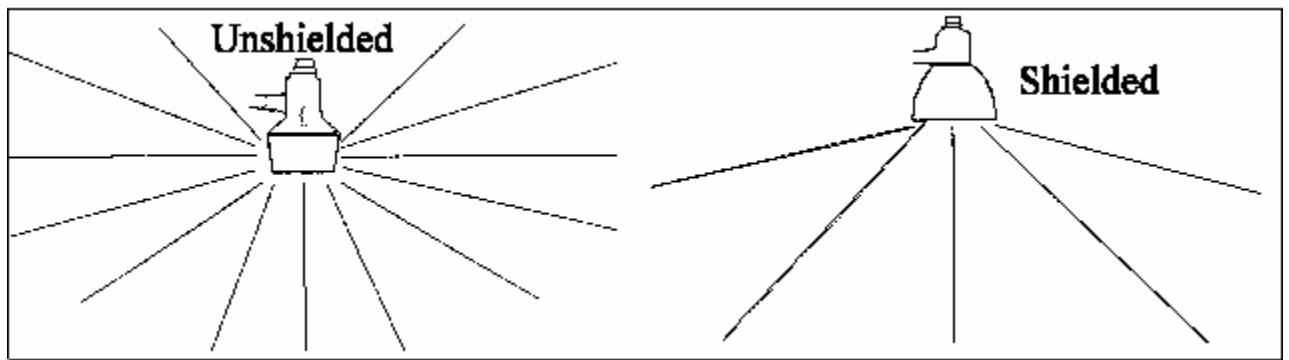
4.6.4. Roofs shall include a vegetated roof or be a neutral earth tone color that blends with the environment. Slate and concrete tiles, concrete and wood simulated shakes, and composition roofing are considered acceptable roofing applications. Exposed metal surfaces shall be painted to complement adjacent materials or be anodized a dark color. Wood shakes and shingles shall *not* be permitted due to fire danger.

4.7. **Outdoor Lighting.** Outdoor lighting standards are intended to maintain views of the night sky above Barnes Butte.

4.7.1. Street lights are prohibited in the primary and secondary scenic areas.

4.7.2. Lighting shall not be directed onto adjacent property.

Figure 155.8 Lighting standards



4.8. **Accessory buildings, pools, sport courts, and other.**

4.8.1. Accessory buildings shall be integrated with the natural topography of the site and shall be compatible with other buildings by use of similar forms, colors, and materials.

4.8.2. Swimming pools, sports courts, greenhouses, hot tubs and other similar facilities are required to be screened from the public view from the northwest, west and southwest directions.

4.8.3. No structure of a temporary character (*i.e.*, trailer, tent, shack, garage, barn or other outbuilding) shall be permitted.

4.8.4. Water features shall be integrated as part of the landscape and have a natural appearance. Water features in front yards are prohibited, unless they are integrated into the required site drainage.

4.9. **Trash and utilities.**

4.9.1. **Utilities.** All connections from trunk lines to individual structures must be underground; exposed plumbing, electrical, and all other utilities and services are prohibited. All areas of excavation for site utility work must be restored to their natural state or landscaped. All exposed equipment shall be painted to match the adjacent exterior house color.

4.9.2. Communication Facilities. Communication facilities are not allowed within the Primary area. Public agency facilities are allowed in the Secondary area through a type III review procedure provided they are within the height limit identified in 4.2.1.1, are indistinguishable from the surrounding area and the applicant demonstrates substantial need for the location of the facility in the proposed area.

4.10. Landscape design.

4.10.1. One native plant or tree shall be planted for every 200 square feet of disturbed lot area.

4.10.2. In the primary scenic area:

4.10.3. Formal gardens and turf areas shall be limited to locations immediately adjacent to the house; and

4.10.4. Vegetation located further than 30 feet from the primary residence shall be native and appropriate for the immediate natural habitat.

4.11. Required within recorded CC&Rs.

4.11.1. Driveways and parking.

4.11.1.1. Homes may have no more than 2 attached garage bays facing in a southwest, west or northwest direction. The maximum height of a garage door is 8 feet unless screened from public view from these directions.

4.11.2. Architectural elements.

4.11.2.1. Skylight glazing material shall be selected to reduce glare. Clear, bronze or gray glazing is permitted. White or other colored skylights are prohibited. Flat skylights are permitted but domes shall not be allowed on any roof visible from public view from a southwest, west or northwest direction.

4.11.2.2. Exterior structural supports and undersides of floors and decks *not* enclosed by walls are prohibited unless it is demonstrated that no alternative type of construction is feasible and that fire safety and aesthetic considerations have been adequately addressed.

4.11.2.3. The slope of the main roof shall generally be oriented in the same direction as the natural slope of the terrain.

4.11.2.4. Awnings shall fit window bays to blend with or augment the architectural character of the building. Awnings must be constructed of material selected to complement the body color of the building and are only allowed at ground floor elevations. No stripes or patterns shall be permitted. Earth tone metal, wood or fabric are acceptable awning materials.

4.11.2.5. All exterior chimney chases surrounding flues shall be of wood, stone or brick. A chimney chase and shroud, large enough to completely cover the

metal fireplace flue shall be required. The chimney chase, flue and shroud shall be painted to match surrounding materials, eliminating the glare from the raw flue and sheet metal, as unfinished metal flues are *not* permitted. If a chimney chase and shroud are used on a gas fireplace vent, it too must be built and painted to the same standards as chimney chases and shrouds.

- 4.11.2.6. Flagpoles shall *not* exceed the height of the primary building. Flags shall *not* exceed 24 square feet.
 - 4.11.2.7. All exterior elements of heating and/or cooling systems must be screened from the view of neighboring building sites, residences and roadways and must limit noise transmission to acceptable levels (per Department of Environmental Quality administrative rules) at adjoining properties. Materials used to screen HVAC systems shall match or complement adjacent building materials. Landscaping alone is adequate to screen HVAC systems.
 - 4.11.2.8. Except for dish TV receivers and television antennas of *not* more than 3 feet in diameter no exterior satellite receivers or transmitters, radio antennas, or other receiving device shall be placed on any building or structure.
- 4.11.3. **Fences and walls.** Fences and walls shall be limited to building materials approved for home siding in Section 155.090.4.7.
- 4.11.3.1. Temporary construction fencing shall be limited to the building envelope or shall be elevated to allow for movement of small animals. Permanent chain link fences are prohibited.
 - 4.11.3.2. In the primary scenic area, fences and walls shall *not* exceed a height of 4 feet measured from the highest side of the fence or wall and shall be limited to those areas where fences and walls of this height are necessary for protection of landscaping, security, or play areas.
- 4.11.4. **Retaining walls.** Retaining walls shall blend with the natural topography and follow existing contours to the greatest extent possible.
- 4.11.4.1. Retaining walls shall *not* be used to create large, flat yard areas. The limited use of retaining walls may be allowed when it can be demonstrated that their use will substantially reduce the amount of grading.
 - 4.11.4.2. Retaining walls that are visible from a public street shall have a veneer of natural stone, stained concrete, or textured surface to help blend the wall with the natural hillside environment. Retaining walls shall be constructed of permanent materials (stone, concrete, masonry block or brick). Wood is prohibited.
 - 4.11.4.3. Retaining walls shall *not* be higher than 5 feet. Where an additional retained portion is necessary due to unusual or extreme conditions (*e.g.*,

lot configuration, steep slope, or road design), the use of multiple-terraced, low elevation retaining structures is preferred.

- 4.11.4.4. Terraced retaining walls shall be separated by at least 3 feet and include appropriate landscaping.
- 4.11.4.5. Retaining and planter walls shall be provided with a landscaped buffer of at least 5 feet adjacent to the Right-of-way.
- 4.11.4.6. Retaining walls shall *not* run in a straight continuous direction for more than 30 feet without a break, offset, or planting pocket to break up the long flat horizontal surface.
- 4.11.4.7. Landscaping shall be provided adjacent to retaining walls and shall include a combination of native trees and shrubs to screen the wall.

4.11.5. **Outdoor Lighting.**

- 4.11.5.1. All exterior and outdoor lighting fixtures shall use full cutoff fixtures (shielded). A full cutoff or shielded “fixture” is one that directs light downwards so that no direct light rays are emitted at more than 90 degrees from the vertical.
- 4.11.5.2. Landscape lighting shall be shielded and low lying (below 4 feet) and low wattage (50 watts for incandescent and florescent lighting 25 watts for halogen, 10 watts for metal halide, and 1 watt for LED lighting).
- 4.11.5.3. Lighting for purely decorative purposes is prohibited except for holiday lighting.
- 4.11.5.4. Up-lighting of trees, lighting of facades and architectural features is prohibited.
- 4.11.5.5. Security lighting shall be controlled by motion detectors.

155.100 Density Transfer (on same lot)

Residential density transfer from one portion of a lot to another may be approved by the Planning Commission under Type III procedure as prescribed in this Section.

1. **Required Setback Areas.** Resident density may be transferred *from* density transfer areas (protected areas of the site) *to* density receiving areas (buildable portions of the site).
 - 1.1. **Density transfer areas** include required natural feature setback areas, land with slopes of 18% or greater, buildable Barnes Butte primary and secondary scenic areas, and land within the 100-year floodplain. Transfer areas do *not* include land within the floodway or the natural feature itself (*i.e.*, surface water features, raptor nesting sites, or unbuildable portions of Rimrock and Barnes Butte scenic areas).
 - 1.2. **Density receiving areas** include buildable land that is outside of:
 - 1.2.1. The Barnes Butte primary and secondary scenic areas;
 - 1.2.2. Other natural features and their respective setback or impact areas;
 - 1.2.3. The 100-year floodplain;
 - 1.2.4. Designated wetlands; and

- 1.2.5. Areas with slopes of 18% or more.
2. Density transfer limitations. The maximum gross density for the receiving area of the site shall not exceed 150% of the maximum density otherwise allowed by the underlying zoning district for that receiving area.
 - 2.1. The Planning Commission may approve lot size reductions within the receiving area as a cluster development to accommodate allowable density transfer outside the planned unit development (PUD) process.
 - 2.2. Housing types not otherwise permitted in the underlying zoning district may only be approved through the PUD (planned unit development) process.
3. Consolidated application required. Transfer of density may only occur from transfer areas to receiving areas on sites that are subject to a consolidated development application.
4. Recordation. As a condition of approval for density transfer, the Planning Commission shall require that the property owner(s) record:
 - 4.1. A conservation easement to the City for land within the transfer area and any adjoining natural feature on the site; and
 - 4.2. A document clearly stating the housing types and density permitted in the receiving area as a result of approved density transfer.

155.110 Natural Features Adjustment Process

The purpose of this Section is to allow for adjustments to dimensional standards of the underlying zoning district *or* this Chapter that benefit significant natural features and thereby further the purposes of the Natural Features Overlay District. This Section allows flexibility where necessary to reduce adverse impacts from development on surface water features, wildlife habitat, scenic areas, and natural hazards.

1. Adjustment option. The Planning Commission may approve adjustments to dimensional standards of the underlying zoning district or the Natural Features Overlay District as provided in this Section. One or more adjustments to the dimensional standards of the underlying zoning district may be approved to allow development that meets the adjustment criteria in Section 155.110.4.
2. Setback and use adjustments *not* permitted. Adjustments or variances to Chapter 155 setback or use provisions are not permitted.
 - 2.1. **Adjustments** to surface water feature setbacks are addressed in Section 155.060.
 - 2.2. **Hardship adjustments** for an individual home on a lot of record in surface water and rimrock setback areas are addressed in Sections 155.060 and 155.080.
3. Procedure. Adjustments are reviewed under the procedure type applicable to the primary application.
4. Adjustment criteria. A special natural features adjustment may be requested where development is proposed on land within the Natural Features Overlay District. The applicant for such an adjustment must demonstrate that the following criteria are satisfied:

- 4.1. On balance, the adjustment results in a net benefit to the impacted natural feature, as defined by the purpose Section of the applicable standard from which the adjustment is proposed.
- 4.2. The adjustment is the minimum necessary to allow or site a permitted use, while minimizing disturbance to the natural feature itself and adjoining land within the required setback areas or impact areas.
- 4.3. Explicit consideration shall be given to:
 - 4.3.1. Maximizing native vegetative cover;
 - 4.3.2. Minimizing excavation;
 - 4.3.3. Minimizing adverse impacts on views; *and*
 - 4.3.4. Minimizing impervious surface area.
 - 4.3.5. Neighbor Impact.
- 4.4. Design and siting options have been considered to reduce the impacts of development. The Director or Planning Commission may require the applicant to specifically address options that the applicant may not have considered.
- 4.5. Assurances are in place to guarantee that future development will *not* encroach further onto the natural feature itself, required setbacks or impact areas under the same ownership.
- 4.6. The Planning Commission or Director may impose any reasonable condition necessary to mitigate impacts resulting from development on otherwise restricted development areas.

155.120 Slope Hazard Requirements

1. Purpose. The purpose of this Section is to protect existing and future residences of the City of Prineville and the City itself from the hazards of development on slopes greater than 18%, while allowing for efficient urban development within these areas.
2. Slope Hazard Impact Areas. Those areas of the City of Prineville that are on slopes 18% or greater.
3. Permitted Uses. Those uses allowed within the underlying zone and/or the Natural Features Overlay District (Natural Features Overlay District) as set forth in this Chapter.
4. Development Standards.
 - 4.1. Any development on slopes 18%-25% shall be subject to the recommendations of a geotechnical study prepared by a registered professional engineer.
 - 4.2. Any development on slopes 25% or greater shall require the property owner to sign and record a waiver holding the City of Prineville harmless from future damage to persons or property resulting from slides, erosion or rock fall.

155.130 Enforcement & Remedies

Enforcement.

1. The City Manager or designee shall have the powers and the duties to enforce the provisions of this chapter and all amendments thereto.
2. In addition, the City Manager or designee may initiate action to enforce any provision of this chapter, including any violation of any restriction or condition established under the provisions of this chapter in the granting of any application authorized or required pursuant to the provisions of this chapter.
3. Failure to comply with any order or decision as above provided will subject the violator to any legal remedy provided under law, including but not limited to the following.
 - 3.1. A complaint filed with the Circuit Court, or other court of competent jurisdiction whereupon conviction the court may fine the violator up to the maximum allowed by law, or imprison the violator in jail for up to the maximum time allowed by law, or both. Each day a violation occurs may be considered a separate offense.
 - 3.2. The City Planning Official and/or a certified Building Official may order the stoppage of work of any type which is in violation of any of the provisions of this chapter or a permit granted pursuant hereto.
 - 3.3. A copy of the stop work order shall be posted at the site of construction or use and a copy thereof shall be mailed to the last known address of the property owner and/or the permittee.
 - 3.4. Upon the posting of the order, all work shall cease forthwith, and the property owner, permittee or permittee's agents or employees who thereafter continue to work shall be in violation of this chapter.
 - 3.5. The stop work order shall not be removed until satisfactory evidence that the violation has or will be corrected has been provided.

Remedies.

1. A person violating a provision of this chapter shall be subject to the following provisions.
 - 1.1. Unlawful construction or use declared a nuisance. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure, or the subdivision, partitioning, other land development or use of land in violation of this chapter shall be deemed a nuisance.
 - 1.2. Penalty. Except as otherwise provided for by law or by a court of competent jurisdiction, a person violating a provision of this chapter shall, upon conviction, be punished by fine of not more than \$500. A violation of this chapter shall be considered a separate offense for each day the violation continues.

- 1.3. Alternative remedy. In case a building or structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used, or land is, or is proposed to be, used in violation of this chapter, the building or land thereby in violation shall constitute a nuisance, and the city may, as an alternative to other remedies that are legally available for enforcing this chapter, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.
- 1.4. Nuisances. Violations which constitute or include a nuisance violation shall also be subject to the abatement procedures set forth in ordinance 911, sections 46 through 53, inclusive.