



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

3/5/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment  
DLCD File Number 008-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, March 18, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Sterling Anderson, Marion County  
Jon Jinings, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

DATE  
SYSTEM

DEPT OF

FEB 26 2010

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **MARION COUNTY**

Date of Adoption: **02/24/10**

Local file number: **LA09-004**

Date Mailed: **02/25/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 6/15/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendments to the text of the Marion County Urban Zoning Ordinance No. 863 as amended to update the code to incorporate changes in Oregon Revised Statutes Oregon Administrative Ruled City Codes and general updating and clarification of regulations

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable statewide planning goals:

**1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

**DLCD file No.** 008-09 (17637) [16017]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: Sterling Anderson

Address: PO BOX 14500

City: SALEM

Zip: 97308-

Phone: (503) 588-5038 Extension:

Fax Number: - -

E-mail Address:

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## ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)  
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this Form 2 on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp. (for submittal instructions, also see # 5)] MAIL the PAPER COPY and CD of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

**BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON**

In the Matter of an ordinance amending Marion )  
County Code, Title 16 (Urban Zone Code) by )  
amending provisions, deleting Section 16.14, )  
(UTF zone) and 16.18 (Mobile Home Overlay, )  
rezoning certain lands from UTF (Urban )  
Transition Farm) to UT-20 (Urban Transition 20 - )  
Acre Density), and declaring an Emergency. )

AN ADMINISTRATIVE ORDINANCE

**ORDINANCE NO. 1301**

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS  
FOLLOWS:

SECTION I. Purpose

This ordinance is enacted pursuant to the authority granted to general law counties in the State of Oregon by ORS Chapters 203, 197 and 215 to implement the County Comprehensive Plan by amending the Marion County Code provisions related to urban zoning and rezoning certain lands.

SECTION II. Authorization

The Marion County Board of Commissioners initiated legislative amendments to the Marion County Urban Zoning Ordinance by Resolution 09-21R dated June 10, 2009. The Board of Commissioners held a public hearing to consider the amendments on February 10, 2010, for which proper notice and advertisement were given. All persons present during the public hearing were given the opportunity to speak or present written statements.

SECTION III. Evidence and Conclusion

The amendments of the Marion County Urban Ordinance made hereunder are based on consideration and analysis of the operation of present zoning regulations and provisions of ORS Chapters 197 and 215 and the State Land Use Goals and related Oregon Administrative Rules. Due consideration was given to testimony in the hearing. The Board finds that the revisions to the Urban Zone Code are in compliance with the State Land Use Goals, the applicable policies in the Marion County Comprehensive Plan, and with ORS 197 and ORS 215.

SECTION IV. Amendments

1. Title 16 MCC (Marion County Urban Zoning Ordinance) is amended as set forth in Exhibit A, attached hereto and incorporated herein.
2. Properties rezoned by this Ordinance are described in Exhibits B-1 through B-12 attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to the Marion County Zone Code 16.01.040 to reflect the new zoning.

SECTION V. Severability and Savings Clause

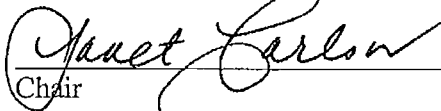
Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or any policy, provision, finding, statement, conclusion, or designation to a particular land use or area of land, or any other portion, segment or element of this ordinance or of the amendments adopted hereunder, be declared invalid for any reason, that declaration shall not affect the validity of any provision of this ordinance or of any other Marion County Code provisions amended herein.

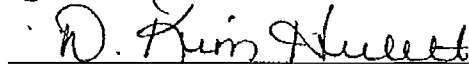
SECTION VI. Effective Date

This ordinance being necessary to protect the public health, safety and welfare, an emergency is declared to exist and this ordinance shall be come effective upon its passage.

SIGNED and FINALIZED this 24th day of February,  
2010, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

  
Chair

  
Recording Secretary

**JUDICIAL NOTICE**

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

# EXHIBIT A

## DELETIONS IN STRIKEOUT ADDITIONS IN BOLD AND UNDERLINED

### CHAPTER 1 GENERAL ZONING PROVISIONS

Section	Title	Revised <hr/> Page
1.10	Zoning Classification	
1.20	Designation of Zones	
1.30	Comprehensive Plan Designation and Zone Classifications	
1.40	Zoning Map	

**1.10 ZONING CLASSIFICATION.** In order to achieve the intent and purpose in Section 35.03, zoning classifications and overlay zones are hereby established for all unincorporated areas of Marion County located within Urban Growth Boundaries as provided in Chapters 2 to 25. These classifications and overlay zones identify uses permitted subject to the development requirements in **Chapters 24 and Chapters-26** through ~~Chapter~~ 34. Conditional uses are subject to the development requirements in the applicable zone, in Chapters 26 through 34, and any requirements imposed as a condition of approval pursuant to Sections 40.03 and 40.04. Zone changes, other than legislative changes, are subject to the requirements of Chapters 26 through 34 and any requirements imposed as a condition of approval pursuant to Sections 39.06 and 39.07.

**1.20 DESIGNATION OF ZONES.** As prescribed in Section 1.10 Marion County is divided into use zones. The zones included in this ordinance are as follows:

<u>Chapter</u>	<u>Classification</u>	<u>Abbreviation</u>
2	Single Family Residential	RS
3	Limited Multi-Family Residential	RL
4	Multiple-Family Residential	RM
5	Commercial Office	CO
6	Commercial Retail	CR
7	Commercial General	CG
8	Highway Commercial	HC
9	Industrial Commercial	IC
10	Industrial Park	IP
11	General Industrial	IG
12	Heavy Industrial	IH
13	Urban Transition	UT
14	<del>Reserved</del> <b>Urban Transition Farm</b>	<del>UTF</del>
15	Urban Development	UD
16	Public	P

**1.30 COMPREHENSIVE PLAN DESIGNATION AND ZONE CLASSIFICATIONS.** Zone classifications implement the Comprehensive Plan designations. Because this Ordinance implements several city comprehensive plans and not all plan designations are identical for all cities those in the Salem/Keizer

Comprehensive Plan are used below. For cities other than Salem, the Zoning Administrator shall decide which of the following zones implement the applicable plan designation on the basis of the intent in the applicable comprehensive plan. **The zone classifications below are listed in order of most restrictive to least restrictive under the appropriate Plan designation.** Following are the zones allowed in the Salem Area Comprehensive Plan designations.

<u>Comprehensive Plan Designation</u>	<u>Zone Classification</u>
Developing Residential	RS, UT, <del>UTF</del> , UD, <b><u>RL, RM</u></b>
Single Family Residential	RS, UT, <del>UTF</del> , UD
Multi-Family Residential	RL, RM, UT, <del>UTF</del> , UD
Commercial	CO, CR, CG, HC, UT, <del>UTF</del> , UD
Industrial	IC, IP, IG, IH, UT, <del>UTF</del> , UD

**1.40 ZONING MAP.** This ordinance includes official zoning maps. The maps, together with all explanatory matter thereon, identify the boundaries of the zones and overlay zones established in Chapters 2 to 25 of this ordinance, and the application of land use regulations in this ordinance to certain lands. The maps shall be filed in the office of the Zoning Administrator. The Zoning Administrator shall amend the maps when so directed by County ordinance. The maps shall be available for public review and copies of the maps shall be provided at reasonable cost. When requested the Zoning Administrator shall certify that a copy of all or a portion of any map "is the current zoning map contained in the Marion County Zoning Ordinance" on a specific date.

## CHAPTER 2

### SINGLE FAMILY RESIDENTIAL - RS ZONE

Section	Title	Page
2.00	Purpose	
2.01	Uses	
2.02	Conditional Uses	
2.03	Prohibited Uses	
2.10	Development Standards	
2.11	Height	
2.12	Lot Area and Dimensions	
2.13	Front Yards and Yards Adjacent to Streets	
2.14	Interior Side Yards	
2.15	Interior Rear Yards	
2.20	Landscaping	
2.30	Reference to Additional Standards	

\* ~~Word~~ **Terms** defined in Chapter 49

**2.00 PURPOSE.** The purpose of the RS (Single Family Residential) zone is to allow development of attached or detached residences on individual lots provided with urban services at low urban densities. Other uses provided in 2.01 and 2.02 are also appropriate. These areas are designated as Single Family Residential or equivalent designation in the applicable urban area comprehensive plan.

**2.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the RS zone:

- (a) Detached single family dwelling\* on a lot.
- (b) Child day care home\* for 12 or fewer children.—~~or less.~~
- (c) Utility\* substations.
- (d) The following uses subject to the special standards in Chapter 26:
  - (1) Mobile home\* on a lot in a mobile home subdivision or as a replacement for a legally non-conforming mobile home (see Section 26.02).
  - (2) Two family shared housing (see Section 26.04).
  - (3) Duplex\* on a corner lot (see Section 26.06).
  - (4) Zero side yard dwelling\* units (see Section 26.08).
  - (5) Home occupations- limited\* (see Section 26.20).
  - (6) Residential sales offices (see Section 26.30).
  - (7) Boat and RV storage area (see Section 26.34).
  
  - (8) Religious Organizations\* (see Section 26.60).
  - (9) Planned Developments (see Section 26.800).
  - (10) Mobile home parks (see Section 26.901).
  - (11) Elementary and secondary schools. SIC 8211 (see Section 26.62).
  - (12) Manufactured home on a lot (see Section 26.03).



- (e) Signs subject to Chapter 31.
- (f) The following accessory uses are permitted on a lot in conjunction with a permitted dwelling or mobile home:
  - (1) Decks and patios (open, covered or enclosed);
  - (2) Storage building for: fire wood, equipment used in conjunction with dwelling and yard maintenance; personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
  - (3) Green house;
  - (4) Sauna;
  - (5) Hobby shop;
  - (6) Shelter for pets;
  - (7) Fall out shelters,
  - (8) Swimming pools and hot tubs;
  - (9) Guest **facility\* subject to 25.20 (9)House\***;
  - (10) Rooming\* or boarding\* of up to two persons in a dwelling;
  - (11) Pets\* Not more than 10 mammals over four months old are allowed as pets unless a Conditional Use Permit is obtained;
  - (12) One recreational vehicle space\* subject to Section 26.41;
  - (13) Additional kitchens in a dwelling provided all kitchens in the dwelling are used by only one family **and provided the kitchens are not located in separate dwelling units.**
  - (14) Offering for sale five or fewer vehicles\* owned by the occupants of the dwelling in any calendar year.
  - (15) Garages\* and carports\* for covered vehicle parking.
  - (16) Child foster home\* ~~for 5 or fewer children.~~
  - (17) Sleeping quarters in the dwelling or mobile home for domestic employees of the resident of the dwelling or mobile home.
  - (18) Fences subject to the requirements in Chapter 28.
  - (19) Vegetable gardens, orchards and crop cultivation for personal use. No sale of produce is permitted. No birds or fur-bearing animals, other than pets,\* and no livestock, poultry or beekeeping permitted.
  - (20) Parking of vehicles\* in a structure, or outdoors provided:
    - (a) All of the vehicles are owned by the owner or lessee of the lot or their guests; and
    - (b) Vehicles may be parked outdoors: ~~in a space~~
      - i. ~~w~~**Within the front yard in a driveway that meets ing the requirements for required parking standards in Section 30.137, or, and;**
      - ii. ~~i~~**In the lot area where accessory buildings are permitted, provided the parking area is screened by a six foot high sight-obscuring fence, wall or hedge from other lots in a residential use and has an all-weather surface drained to prevent standing water.**
      - iii. Not more than three vehicles shall be parked on a lot within required yards abutting streets.
  - (c) Parked vehicles shall be for the personal use of the occupants of the dwelling.

**(d)** ~~One~~ Two vehicles used in conjunction with a home occupation or other employment may be parked on a lot ~~provided the vehicle is parked in an enclosed structure if it is rated at more than one ton capacity.~~

**(e)** Any vehicle used in conjunction with a home occupation or other employment that is parked on a lot and is rated at more than one ton capacity must be parked in an enclosed structure.

**(g)** Temporary uses permitted in Section 25.30.

**(h)** Transit and school bus stop shelters.

**2.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- ~~(a) Transit and school bus stop shelters.~~
- (a) Public parks and playgrounds.
- (b) Public buildings and structures such as libraries, fire stations and public utility facilities\*.
- (c) Individual and Family Social Services as defined in SIC 8322.
- (d) Civic, social and fraternal organizations as defined in SIC 864.
- (e) Child day-care center facility\* (see Section 26.22).
- (f) Residential facilities\* (see Section 26.24).
- (g) Membership recreation club. SIC 7997 (see Section 26.32).
- (h) Public golf course. SIC 7992 (see Section 26.32).
- (i) Duplex on a corner lot without the limits in Section 2.01 (d)(3).
- (j) Home occupation-conditional\* subject to Chapter 32.40.

**2.03 PROHIBITED USES.** Within an RS zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 2.01 to 2.02.

**2.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in Chapter 24 and Chapters 26 through 34 apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**2.11 HEIGHT.** Within an RS zone:

- (a) Structures shall not exceed 35 feet in height except as provided for in (b) and (c).
- (b) Structures for public and semi-public\* uses - 70 feet provided required setbacks shall be increased one foot for every foot the structure height exceeds 35 feet.
- (c) Structures exempt from height requirements identified in Section 27.16 and structures with specific height requirements identified in Chapter 28 are not subject to (a) and (b) above; however, required setbacks for structures identified in Section 27.16 shall be increased one foot for every foot the structure exceeds 35 feet.

**2.12 LOT AREA AND DIMENSIONS.** Within an RS zone:

- (a) **Lot Area:** The minimum lot area for a single family dwelling in a subdivision approved after the effective date of the Ordinance, ~~or a mobile home on a mobile home subdivision lot approved after the effective date of this ordinance,~~ is 4,000 square feet when located within the Salem/Keizer Area Urban Growth Boundary. In all other cases lots shall be a minimum of 6,000 square feet. (See Chapter 27 for density limitations).
- (b) **Lot dimensions, single family:** Except as provided in Section 26.800 for Planned Developments, the average width of a lot shall be at least 60 feet; provided that within the Salem/Keizer Urban Growth Boundary the average width of a lot shall be at least 40 feet, and the average depth of a lot shall be at least 70 feet.
- ~~(c) **Lot dimensions, other uses:** The average width of a lot shall be at least 40 feet, and the average depth of a lot shall be at least 80 feet, except as provided in Section 26.800 for Planned Developments.~~

**2.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an RS zone:

- (a) Within the Salem/Keizer Urban Growth Boundary, along the full extent of each front lot line, or lot line abutting a street ~~or roadway right-of-way line~~, there shall be a required yard 12 feet in depth provided, however, garages or carports having a vehicle entrance facing a street or roadway right-of-way line shall be set back at least 20 feet from the street right-of-way line. ~~or roadway right-of-way lines.~~ For other Urban Growth Boundaries the required yard shall be 20 feet.
- ~~(b) For dwellings within 20 feet from the street right-of-way no more than two adjacent lots shall have the same setback from the right-of-way for the primary building. Setbacks for the primary building shall vary at least four feet in depth. A dwelling having a side yard abutting a street shall not be considered as affecting or affected by setbacks of adjacent buildings under this subsection.~~
- (b) Notwithstanding the provisions of subsections (a) ~~and (b)~~ of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street or from the special setback established in Section 27.21, whichever is greater.
- (c) Setbacks for accessory structures shall be as provided in Chapter 28.
- (d) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.

**2.14 INTERIOR SIDE YARDS.** Within an RS zone the following side yards shall be provided:

- (a) A minimum of five feet; provided, inside the Salem/Keizer Urban Growth Boundary, side yards of zero feet on one side and at least ten feet on the other side are permitted for zero side yard dwellings (see Section 26.08) when the lot abutting the zero setback is in the same ownership at the time the dwelling is constructed and the zero setback will not encroach on any easements.
- (b) Setbacks for accessory structures shall be as provided in Chapter 28.
- (c) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.

**2.15 INTERIOR REAR YARDS.** Within an RS zone the following rear yards shall be provided:

- (a) Within the Salem/Keizer UGB 14 feet for any single family dwelling and for **a primary building that does not exceed any portion of any other building not more than 15 feet in height. ; and 20 feet for any portion of a building greater than 15 feet in height other than a single family dwelling. A primary building greater than 15 feet in height shall maintain a 20 foot rear yard.**

- (b) Within other urban growth boundaries 24 20 feet for a single family dwelling and ~~20~~ feet for any portion of a building other than a single family dwelling.
- (c) Setbacks for accessory structures shall be as provided in Chapter 28.
- (d) Yards for Planned Developments and for Mobile Home Parks shall be as provided in Chapter 26.

**2.20 LANDSCAPING.** Within an RS zone:

- (a) All portions of required yards lying between a street or roadway and the dwelling, or between the street or roadway and any sight-obscuring fence, wall or hedge located within the required yard, shall be landscaped.
- (b) All required landscaped areas shall be landscaped as provided in Chapter 29.

**2.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
Planned Developments	Chapter 26
Mobile Home Parks	Chapter 26
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b><u>Subdivision and Partition Requirements</u></b>	<b><u>Chapter 33</u></b>

**CHAPTER 3**  
**LIMITED MULTIPLE FAMILY RESIDENTIAL - RL ZONE**

Section	Title	Page
3.00	Purpose	
3.01	Uses	
3.02	Conditional Uses	
3.03	Prohibited Uses	
3.10	Development Standards	
3.11	Height	
3.12	Lot Area and Dimensions	
3.13	Front Yards and Yards Adjacent to Streets	
3.14	Interior Side Yards	
3.15	Interior Rear Yards	
3.20	Landscaping	
3.30	Informational Reference to Additional Standards	

\* Word Terms defined in Chapter 49

**3.00 PURPOSE.** The RL (LIMITED MULTIPLE FAMILY RESIDENTIAL) zone is intended to provide for detached and attached dwellings on a lot or multiple dwellings on a lot at an intermediate density. Other uses compatible with residential development are also appropriate. RL zones are located in areas designated Multiple Family Residential or an equivalent designation in the applicable urban area comprehensive plan and are provided with urban services. They should be located near the perimeter of lower density residential areas.

**3.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the RL zone:

- (a) Detached single family dwelling\* on a lot.
- (b) Child day care home\* for 12 or less fewer children.
- (c) Child foster home.\***
- (d) Duplex\*, multiple family dwelling\*.
- (e) Combination of permitted attached or detached dwellings on a lot.
- (f) Utility\* Substation.
- (g) The following uses subject to the special standards in Chapter 26:
  - ~~(1) Mobile home\* on a lot in a mobile home subdivision (see Section 26.02).~~
  - (1) Two family shared housing (see Section 26.04).
  - (2) Zero side yard dwelling units\* (see Section 26.08).
  - (3) Home occupations limited\* (see Section 26.20).
  - (4) Residential facility\* (see Section 26.24).
  - (5) Residential sales offices (see Section 26.30).
  - (6) Public golf course SIC 7992 (see Section 26.32).
  - (7) Boat and RV storage area (see Section 26.34).
  - (8) Religious organizations\* (see Section 26.60).
  - (9) Planned Developments (see Section 26.800).
  - (10) Mobile home parks (see Section 26.900).
  - (11) Elementary and secondary schools SIC 8211 (see Section 26.62).
  - (12) Recreational vehicle park within a mobile home park (see Section 26.904).
  - (13) Manufactured home on a lot in the Salem Urban Growth Boundary (see Section 26.03).
- (h) Signs subject to Chapter 31.
- (i) Accessory, secondary, and temporary uses permitted in Sections 25.20 and 25.30.

**3.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (a) Child day-care center ~~facility~~\* (see Section 26.22).
- (b) Rooming and boarding houses\*.
- (c) Public parks and playgrounds.
- (d) Public buildings and structures such as libraries, fire stations and public utility facilities\*.
- (e) Civic, social and fraternal organizations SIC 864.
- (f) Nursing care facility\* (see Section 26.24).
- ~~(g) Child foster home\* for 6 or more children.~~
- (h) Individual and Family Social Services SIC 8322.
- (i) Membership recreation club SIC 7997 (see Section 26.32).
- (j) Home occupations-conditional\* subject to Chapter 32.40.

**3.03 PROHIBITED USES.** Within an RL zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 3.01 to 3.02.

**3.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and Chapters 26 through 34** apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**3.11 HEIGHT.** Within an RL zone:

- (a) Structures shall not exceed 35 feet in height except as provided for in (b) and (c).
- (b) Structures for public and semi-public\* uses - 70 feet provided required setbacks shall be increased one foot for every foot the structure height exceeds 35 feet.
- (c) Structures exempt from height requirements identified in Section 27.16 and structures with specified height requirements identified in Chapter 28, are not subject to (a) and (b) above; however, required setbacks for structures identified in Section 27.16 shall be increased one foot for every foot the structure height exceeds 35 feet.

**3.12 LOT AREA AND DIMENSIONS.** Within an RL zone:

- (a) **Lot Area, Single family dwellings, mobile homes or duplexes:** Except as provided in Section 26.800 for Planned Developments, the lot area for an unattached single family dwelling, ~~or a mobile home on a lot in a mobile home subdivision~~ shall be at least 4,000 square feet. The lot area for a single family dwelling attached on one side is 3500 square feet, and for a single family dwelling attached on both sides the lot area shall be at least 3000 square feet. Duplexes shall occupy lots of at least 6,000 square feet. (See Chapter 27 for density limitations).
- (b) **Lot Area, multiple family dwellings:** The minimum lot area for multiple family dwellings shall be at least 6,000 square feet. (See Chapter 27 for density limitations).
- (c) **Lot Area, Other Uses:** At least 6,000 square feet.
- (d) **Lot dimensions, single family:** The average width of a lot shall be at least 40 feet, and the average depth of a lot shall be at least 70 feet except as provided in Section 26.800 for Planned Developments.
- ~~(e) **Lot dimensions, other uses:** The average lot width of a lot shall be at least 40 feet, and the average depth of a lot shall be at least 80 feet, except as provided in Section 26.800 for Planned Developments.~~

**3.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an RL zone:

- (a) Along the full extent of each front lot line, lot line abutting a street and roadway right-of-way line there shall be a required yard 12 feet in depth provided, however, that garages or carports having a vehicle entrance facing a street or roadway right-of-way shall be setback at least 20 feet from the street or roadway right-of-way line.
- ~~(b) For single family dwellings located less than 20 feet from the street right of way no more than two adjacent lots shall have the same setback from the street right of way. Setbacks for dwellings located less than 20 feet from the street shall vary at least four feet in depth between adjacent lots. A dwelling having a side yard abutting a street shall not be considered as affecting or affected by setbacks of adjacent buildings under this subsection.~~
- (b) Notwithstanding the provisions of subsection (a) and ~~(b)~~ of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street.
- (c) Setbacks for accessory structures shall be as provided in Chapter 28.
- (d) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.
- (e) Special setbacks, in addition to those in this section, are established in Section 27.21.

**3.14 INTERIOR SIDE YARDS.** Within an RL zone the following side yards shall be provided:

- (a) Five feet, except 20 feet for any portion of a building greater than 15 feet in height, other than a single family dwelling, when the side lot line abuts an RS zone. Side yards of zero feet on one side or both sides are permitted for zero side yard dwellings (See Section 26.08) when the lot abutting the zero setback is in the same ownership at the time the dwelling is established and the dwelling does not encroach into any easements. Where a zero setback is provided the setback on the abutting lot shall be either zero feet or at least 10 feet.
- (b) Setbacks for accessory structures shall be as provided in Chapter 28.
- (c) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.

**3.15 INTERIOR REAR YARDS.** Within an RL zone the following rear yards shall be provided:

- (a) Five feet, except 20 feet for any portion of a building greater than 15 feet in height, other than a single family dwelling, when the rear lot line abuts an RS zone.
- (b) Setbacks for accessory structures shall be as provided in Chapter 28.
- (c) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.

**3.20 LANDSCAPING.** Within an RL zone:

- (a) All portions of required yards lying between a street or roadway and the dwelling or between the street or roadway and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.
- (b) All required landscaped areas shall be landscaped as provided in Chapter 29.
- (c) In addition to landscaped areas required under (a) playgrounds with play equipment or irrigated grass play fields, at least 400 square feet in area each, shall be provided whenever eight or more dwelling units with two or more bedrooms are located on a lot. Fifty square feet of playground or playfield shall be provided for each two or more bedroom dwelling unit. The average length of a playground or playfield shall not be more than twice the average width. At least one area shall be a playfield.

**3.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b>Geologically Hazardous Overlay Zone</b>	<b>Chapter 24</b>
Planned Developments	Chapter 26
Mobile Home Parks	Chapter 26
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
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**CHAPTER 4**  
**MULTIPLE FAMILY RESIDENTIAL - RM ZONE**

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4.02	Conditional Uses	
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4.15	Interior Rear Yards	
4.20	Landscaping	
4.25	Storage	
4.30	Reference to Additional Standards	

\* ~~Word~~ **Terms** defined in Chapter 49

**4.00 PURPOSE.** The RM (MULTIPLE FAMILY RESIDENTIAL) zone is primarily intended to provide for multiple family dwellings on a lot, or attached dwellings on separate lots, at Residential densities greater than permitted in the RL zone. Other uses compatible with residential development are also appropriate. RM zones are located in areas designated as Multiple Family Residential or an equivalent designation in the applicable urban area comprehensive plan and are provided with urban services. They are suited to locations near commercial office and retail zones and along collector and arterial streets.

**4.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the RM zone:

- (a) Duplex\*, multiple family dwelling\*.
- (b) Combination of permitted attached or detached dwellings on a lot.
- (c) Utility\* Substation.
- (d) Child day care home\* for 12 or fewer children.
- (e) Child Foster home\*.
- (f) Residential Facility\*.
- (g) The following uses subject to the special standards in Chapter 26:
  - (1) ~~Mobile home\* on a lot in a mobile home subdivision (see Section 26.02).~~
  - (1) Two family shared housing (see Section 26.04).
  - (2) Zero side yard dwelling units\* (see Section 26.08).
  - (3) Home occupations limited\* (see Section 26.20).
  - (4) Child day care **facility center**\* (see Section 26.22).
  - (5) Nursing care facility\* (see Section 26.24).
  - (6) Bed and breakfast establishments (see Section 26.26).
  - (6) Residential sales offices (see Section 26.30).
  - (8) Public golf course. SIC 7992 (see Section 26.32).
  - (9) Boat and RV storage area (see Section 26.34).
  - (10) Mixed use buildings (see Section 26.46).

- (11) Religious organizations\* (see Section 26.60).
- (12) Elementary and secondary schools. SIC 8211 (see Section 26.62).
- (13) Planned Developments (see Section 26.800).
- (14) Mobile home parks (see Section 26.901).
- (15) Recreational vehicle park within a mobile home park (see Section 26.904).
- ~~(16) Manufactured home on a lot in the Salem Urban Growth Boundary (see Section 26.03).~~
- (h) Signs subject to Chapter 31.
- (i) Accessory, secondary, and temporary uses permitted in Sections 25.20 and 25.30.

**4.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (a) Rooming and boarding houses\* or lodging rooms\*.
- (b) Beauty shops, barber shops, parking lot. SIC 7521, when adjacent to a commercial zone.
- (c) Public parks and playgrounds.
- (d) Public buildings and structures such as libraries, fire stations and public utility facilities\*.
- (e) Civic, social and fraternal organizations. SIC 864.
- (f) Individual and Family Social Services. SIC 8322.
- (g) Membership recreation club. SIC 7997 (see Section 26.32).
- (k) Home occupations-conditional\* subject to Chapter 32.40.

**4.03 PROHIBITED USES.** Within an RM zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 4.01 to 4.02.

**4.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in Chapters 24 and Chapters 26 through 34 apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**4.11 HEIGHT.** Within an RM zone:

- (a) Structures shall not exceed 35 feet in height except as provided for in (b) and (c).
- (b) Structures for public and semi-public\* uses - 70 feet provided required setbacks shall be increased one foot for every foot the structure height exceeds 35 feet.
- (c) Structures exempt from height requirements identified in Section 27.16 and structures with specified height requirements identified in Chapter 28, are exempt from (a) and (b) above; however, required setbacks for structures identified in Section 27.16 shall be increased one foot for every foot the structure height exceeds 35 feet.

**4.12 LOT AREA AND DIMENSIONS.** Within an RM zone:

- ~~(a) **Lot Area, single family dwellings, mobile homes, and duplexes:** Except as provided in Section 26.800 for Planned Developments, the lot area for an unattached single family dwelling, or a mobile home on a lot in a mobile home subdivision, shall be at least 4,000 square feet. The lot area for a single family dwelling attached on one side is 3500 square feet, and the minimum lot area for a single family dwelling attached on both sides shall be at least 3000 square feet. Duplexes shall occupy lots of at least 6,000 square feet. (See Chapter 27 for density limitations).~~

- ~~(b) **Lot Area, multi family dwellings:** At least 6,000 square feet. (See Chapter 27 for density limitations).~~
- (a) **Lot Area, multi-family dwellings and other uses:** At least 6,000 square feet.
- (b) **Lot Dimensions, single family:** The average width of a lot shall be at least 40 feet, and the average depth of a lot shall be at least 70 feet except as provided in Section 26.800 for Planned Developments.
- ~~(e) **Lot Dimensions, other uses:** The average width of a lot shall be at least 40 feet, and the average depth of a lot shall be at least 80 feet, except as provided in Section 26.800 for Planned Developments.~~

**4.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an RM zone:

- (a) For dwellings, along the full extent of each front lot line, lot line abutting a street, ~~and roadway right-of-way line~~, there shall be a required yard 12 feet in depth provided, however, that garages or carports having a vehicle entrance facing a street ~~or roadway~~ shall be setback at least 20 feet from the street ~~or roadway right-of-way line~~.
- (b) For other uses, along the full extent of each front lot line, lot line abutting a street, ~~or roadway right-of-way line~~, there shall be a required yard one foot in depth for each one and one-half feet of building height, but in no event less than 12 nor more than 20 feet in depth.
- (c) Notwithstanding the provisions of subsections (a) and (b) ~~and (e)~~ of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street.
- (d) Setbacks for accessory structures shall be as provided in Chapter 28.
- (e) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.
- (f) Special setbacks, in addition to those in this section, are established in Section 27.20.

**4.14 INTERIOR SIDE YARDS.** Within an RM zone the following side yards shall be provided:

- (a) Five feet, except 20 feet for any portion of a building greater than 15 feet in height, ~~other than a single family dwelling~~, when the side lot line abuts an RS zone. Side yards of zero feet on one side or both sides are permitted for zero side yard dwellings (See Section 26.08) when the lot abutting the zero setback is in the same ownership at the time the dwelling is established and the dwelling does not encroach into any easements. Where a zero setback is provided, the setback on the abutting lot shall be either zero feet or at least 10 feet.
- (b) Setbacks for accessory structures shall be as provided in Chapter 28.
- (c) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.

**4.15 INTERIOR REAR YARDS.** Within an RM zone the following rear yards shall be provided:

- (a) Five feet, except 20 feet for any portion of a building greater than 15 feet in height, ~~other than a single family dwelling~~, when the rear lot line abuts an RS zone.
- (b) Yards for Planned Developments and Mobile Home Parks shall be as provided in Chapter 26.
- (c) Setbacks for accessory structures shall be as provided in Chapter 28.

**4.20 LANDSCAPING.** Within an RM zone:

- (a) All portions of required yards lying between a street ~~or roadway~~ and the dwelling or between the street ~~or roadway~~ and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.
- (b) All areas required to be landscaped under (a) shall be landscaped as provided in Chapter 29.
- (c) In addition to landscaped areas required under (a) playgrounds with play equipment or irrigated grass play fields, at least 400 square feet in area each, shall be provided whenever eight or more dwelling units with two or more bedrooms are located on a lot. Fifty square feet of playground or playfield shall be provided for each two or more bedroom dwelling unit. The average length of a playground or playfield shall not be more than twice the average width. At least one area shall be a playfield.

**4.25 STORAGE.** Within an RM zone open outdoor storage of materials or equipment shall be screened from view from the street and adjacent properties by a sight-obscuring fence, wall or hedge.

**4.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b>Geologically Hazardous Overlay Zone</b>	<b>Chapter 24</b>
Planned Developments	Chapter 26
Mobile Home Parks	Chapter 26
General Development Standards & Regulations	Chapter 27
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**CHAPTER 5  
COMMERCIAL OFFICE - CO ZONE**

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5.12	Lot Area and Dimensions	
5.13	Front Yards and Yards Adjacent to Streets	
5.14	Interior Side and Rear Yards	
5.20	Landscaping	
5.27	Storage	
5.30	Reference to Additional Standards	

\* **Word Terms** defined in Chapter 49

**5.00 PURPOSE.** The purpose of the CO (Commercial Office) zone is to provide areas suitable for professional and general commercial offices, membership organizations, similar low intensity, non-retail commercial services and medium density residential accommodations. The Commercial Office zone is appropriate in those areas designated Commercial in the applicable urban area comprehensive plan and as a transition between residential and more intensive commercial areas.

**5.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the CO zone:

- (1) **One dwelling unit\* or lodging room\* in conjunction with a commercial use.**
- (2) **Duplex \*, Multiple family dwellings\*.**
- (3) Travel agency. SIC 4724.
- (4) Telephone/telegraph communication and radio and television broadcasting, cable television services. SIC 481, 482, 483, 484 except transmission towers\*.
- (5) News dealers and newsstands. SIC 5994.
- (6) Finance, insurance and real estate. SIC 60, 61, 62, 63, 64, 65, 66, 67.
- (7) Rooming and boarding houses\*. **SIC 702**
- (8) Organization hotels and lodging houses on membership basis. SIC 704.
- (9) Landscape counseling and planning. SIC 0781.
- (10) Photography studios, beauty and barber shops. SIC 722, 723, 724.
- (11) Consumer credit reporting agencies, mercantile reporting agencies and adjustment and collection agencies. SIC 732.
- (12) Direct mail advertising services. SIC 7331.
- (13) Photo copying and duplicating services. SIC 7334.
- (14) Secretarial and court reporting services. SIC 7338.
- (15) Personnel supply services. SIC 736.
- (16) Computer programming, data processing, and other computer related services. SIC 737.
- (17) Miscellaneous business services. SIC 738 except SIC 7384 photofinishing laboratories and SIC 7389 Business services not already classified.
- (18) Health services. SIC 80 except SIC 806 hospitals, and SIC 805 nursing and personal care facilities.
- (19) Legal services. SIC 81.
- (20) Elementary and secondary schools. SIC 8211.

- (21) Vocational schools. SIC 824.
- (22) Schools and educational services, not elsewhere classified. SIC 829.
- (23) Individual and family services. SIC 832.
- (24) Social services, not elsewhere classified. SIC 839.
- ~~(25) Membership organizations SIC 86~~
- (26) Engineering, accounting, research management, and related services. SIC 87.
- (27) Executive offices. SIC 911.
- (28) Executive and legislative combined. SIC 913.
- (29) Legal counsel and prosecution. SIC 9222.
- (30) Finance, taxation, and monetary policy. SIC 93.
- (31) Administration of human resources programs. SIC 94.
- (32) Administration of environmental quality and housing programs. SIC 95.
- (33) Administration of economic programs. SIC 96.
- (34) National security and international affairs. SIC 97.
- (35) Public parks and playgrounds.
- (36) Public Buildings and structures such as libraries, fire stations and public utility facilities\*.
- (37) Residential facility\*.
- (38) Child day-care home\* or center facility\*.
- (39) Child Foster home\*.
- (40) The following uses subject to the special standards in Chapter 26:
  - (a) Funeral service and crematories. SIC 726 (see Section 26.44).
  - (b) Zero side yard dwellings\* (see Section 26.08).
  - (c) Public golf course. SIC 7992 and membership recreation clubs. SIC 7997 (see Section 26.32).
  - (d) Nursing Care Facility\* (see Section 26.24).
  - (e) Bed and breakfast establishments (see Section 26.26).
  - (f) Veterinary services. SIC 074 (see Section 26.42).
  - (g) Mixed use buildings (see Section 26.46).
  - (h) Religious organizations\* and membership organizations SIC 86 (see Section 26.60).
  - (ih) Eating places. SIC 5812 except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary (see Section 26.56).
  - (ji) Automotive Parking. SIC 7521 (see Section 26.58).
  - (kj) Mobile food vendor\* (see Section 26.57).
- (41) Uses permitted in Chapter 25.
- (42) Signs subject to Chapter 31.

**5.03 PROHIBITED USES.** Within a CO zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 5.01 to 5.02.

**5.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in Chapters 24 and Chapters 26 through 34 apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**5.11 HEIGHT.** Within a CO zone:

- (a) Single family and duplex structures shall not exceed 35 feet in height.
- (b) All buildings with three or more dwelling units or guest rooms shall not exceed 50 feet in height.
- (c) All other buildings and structures - 70 feet provided required setbacks shall be increased one foot for every foot the structure height exceeds 35 feet.
- (d) Structures exempt from these height requirements are identified in Chapter 20 and structures with specified height requirements are identified in Chapter 23.

**5.12 LOT AREA AND DIMENSIONS.** Within a CO zone:

- (a) ~~Lot Area, Single Family Dwellings and Duplexes:~~ The lot area for an unattached single family dwelling shall be at least 4,000 square feet. The lot size for a single family dwelling attached on one side shall be at least 3500 square feet, and the lot size for a single family dwelling attached on both sides shall be at least 3000 square feet. Duplexes shall occupy lots of at least 6,000 square feet. (See Chapter 27 for density limitations).
- (b) **Lot Area, Multi-Family Dwellings:** All multiple family uses shall occupy lots of at least 6,000 square feet. One dwelling unit per 1,500 square feet of net lot area is allowed. (See Chapter 27 for density limitations).
- (c) **Lot Area, Other Uses:** All other uses shall occupy lots of at least 6,000 square feet.
- (d) **Lot Dimensions, Single Family:** The average lot width shall be at least 40 feet, and the average lot depth shall be at least 70 feet.
- (e) ~~Lot Dimensions, Other Uses:~~ The average lot width shall be at least 40 feet, and the average lot depth shall be at least 80 70 feet.

**5.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within a CO zone:

- (a) Along the full extent of each front lot line, lot line abutting a street and roadway right-of-way, there shall be a required yard 12 feet in depth provided, however, that garages or carports having a vehicle entrance facing a street or roadway shall be setback at least 20 feet from the street or roadway right-of-way line.
- (b) ~~For single family dwellings located less than 20 feet from the street right of way no more than two adjacent lots shall have the same setback from the street right of way. Setbacks for dwellings located less than 20 feet from the street shall vary at least four feet in depth between adjacent lots. A dwelling having a side yard abutting a street shall not be considered as affecting or affected by setbacks of adjacent buildings under this subsection.~~
- (b) Notwithstanding the provisions of subsection (a) and (b) of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street.
- (c) Setbacks for accessory structures shall be the same as for main buildings except for accessory structures serving dwellings which are subject to the requirements of Chapter 27.
- (d) Special setbacks, in addition to those in this section, are established in Section 27.20.

**5.14 INTERIOR SIDE AND REAR YARDS.** Within a CO zone the following yards shall be provided:

- (a) Five feet for any portion of a building not more than 15 feet in height.
- (b) Ten feet for any portion of a building over 15 feet in height.
- (c) For zero side yard dwellings see Section 26.08.
- (d) Notwithstanding the provisions of subsections (a) and (b) of this section, where a rear lot line is the boundary of an alley, a building or structure may be built with walls on the property line.
- (e) Setbacks for accessory structures shall be the same as for primary buildings under this section, except that setbacks for accessory structures serving dwelling units shall be as provided in Chapter 27.

**5.20 LANDSCAPING.** Within a CO zone:

- (a) All portions of required yards lying between a street ~~or roadway~~ and the structure or between the street ~~or roadway~~ and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.
- (b) Landscaping shall be provided in any yard abutting a residential zone and in any required interior or side yard.
- (c) A landscaped area at least five feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone, or a street ~~or roadway~~.
- (d) All required landscape areas shall be landscaped as provided in Chapter 29.

**5.25 STORAGE.** Within a CO zone outdoor storage of materials and equipment is prohibited except in conjunction with residential uses where the storage shall be screened from view from the street and adjacent properties by a sight-obscuring fence, wall or hedge.

**5.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
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**CHAPTER 6  
COMMERCIAL RETAIL - CR ZONE**

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6.20	Landscaping	
6.25	Special Requirements Adjacent To <u>Within 100 Feet</u> of Residential <u>Residentially Designated</u> Zones	
6.30	Informational Reference to Additional Standards	

\* ~~Word~~ **Terms** defined in Chapter 49

**6.00 PURPOSE.** The purpose of the CR (Commercial Retail) zone is to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial accommodations and commercial services. The Commercial Retail zone is appropriate in those areas designated Commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.

**6.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the CR zone:

- (1) ~~One-d~~**dwelling units\*** or lodging rooms\* in conjunction with a commercial use.
- (2) Offices for any use listed in SIC Division C - Construction.
- (3) Commercial printing. SIC 275.
- (4) Post offices. SIC 43.
- (5) Travel Agency. SIC 4724.
- (6) Communications. SIC 48 except transmission towers\*.
- (7) Building materials, hardware, retail nurseries and garden supply. SIC 52 except SIC 527 mobile home dealers.
- (8) General merchandise stores. SIC 53.
- (9) Food stores. SIC 54.
- (10) Auto and home supply stores. SIC 553.
- (11) Apparel and accessory stores. SIC 56.
- (12) House furniture, furnishings and equipment stores. SIC 57.
- (13) Eating and drinking places except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary. SIC 58.
- (14) Miscellaneous retail. SIC 59 except SIC 598 fuel dealers, provided all display is within a building.
- (15) Finance, insurance and real estate. SIC 60, 61, 63, 64, 65, 66 and 67.
- (16) Hotels, rooming houses\*, and other lodging places. SIC 70 except campgrounds\* and recreational vehicle parks\*.
- (17) Public utility\*.

- (18) Personal services. SIC 72 except SIC 7217 carpet and upholstery cleaning and SIC 7218 industrial launderers.
- (19) Business services. SIC 73 except SIC 7342 disinfecting and pest control services, and SIC 7353 heavy construction equipment rental.
- (20) Signs subject to Chapter 31.
- (21) Watch, clock and jewelry repair. SIC 763.
- (22) Landscape counseling and planning. SIC 0781.
- (23) Motion picture distribution and allied services. SIC 782.
- (24) Motion picture theaters. SIC 783 except SIC 7838 drive-in.
- (25) Video tape rental. SIC 784.
- (26) Dance studios, schools, and halls. SIC 791.
- (27) Theatrical producers (except motion pictures), bands orchestras and entertainers. SIC 792.
- (28) Bowling centers. SIC 793.
- (29) Miscellaneous amusement and recreation services. SIC 799 except SIC 7992 golf courses and SIC 7996 amusement parks.
- (30) Health services. SIC 80 except SIC 806 hospitals.
- (31) Ambulance service.
- (32) Legal services. SIC 81.
- (33) Educational service. SIC 82.
- (34) Social services. SIC 83, including Nursing Care Facility\*.
- (35) Museums, art galleries, botanical and zoological gardens. SIC 84.
- (36) Membership organizations. SIC 86.
- (37) Engineering, Accounting, Research management, and related services. SIC 87.
- (38) Miscellaneous services. SIC 89.
- (39) Executive offices. SIC 911.
- (40) Executive and legislative combined. SIC 913.
- (41) Finance, taxation, and monetary policy. SIC 93.
- (42) Administration of human resources programs. SIC 94.
- (43) Administration of environmental quality and housing programs. SIC 95.
- (44) Administration of economic programs. SIC 96.
- (45) National security and international affairs. SIC 97.
- (46) Public buildings and structures such as fire stations and public utility facilities\*.**
- (47) Uses permitted in Chapter 25.
- (48) The following uses subject to the special standards in Chapter 26:
  - (a) Gasoline Service stations. SIC 554 (see Section 26.52).
  - (b) Used merchandise store (see Section 26.48) provided all display is within a building.
  - (c) Religious organizations\* **and membership organizations. SIC 86.** (see Section 26.60).
  - (d) Veterinary services. SIC 074 (see Section 26.42).
  - (e) Recreational vehicle parks\* (see Section 26.40).
  - (f) Bed and breakfast establishments (see Section 26.26).
  - (g) Mixed use buildings (see Section 26.46).
  - (h) Automobile dealers. SIC 55 except SIC 553, 554 (see Section 26.58).
  - (i) Automotive parking. SIC 7521 (see Section 26.58).
  - (j) Mobile food vendor\* (see Section 26.57).

**6.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (1) Manufacture of jewelry, silverware and plated ware. SIC 391.
- (2) Manufacture of costume jewelry, novelties, buttons, etc. SIC 396.
- (3) Local and suburban passenger transportation. SIC 411.

- (4) Intercity and rural highway passenger transportation within 2,000 feet from the center point of an I-5 interchange and having direct access onto a major arterial. SIC 413.
- (5) Transmission towers\*
- (6) Carpet and upholstery cleaning. SIC 7217.
- (7) Automotive rental and leasing, without drivers. SIC 751 (see Section 26.58).
- (8) Automotive repair shops. SIC 753 (see Section 26.58).
- (9) Automotive services, except repair. SIC 754 (see Section 26.58).
- (10) Electrical repair shops. SIC 762.
- (11) Reupholstery and furniture repair. SIC 764.
- (12) Professional sports clubs and promoters. SIC 7941.
- (13) Utilities\* - secondary truck parking and material storage yard.

**6.03 PROHIBITED USES.** Within an CR zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 6.01 to 6.02.

**6.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in Chapters 24 and Chapters 26 through 34 apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**6.11 HEIGHT.** Within a CR zone buildings and structures erected, altered, or enlarged shall not exceed 50 feet in height; provided, the portion of any non-residential structure within 20 feet of a side or rear lot line that abuts on a lot in a residential zone shall not project above a plane 12 feet high at the abutting lot line and increasing one foot for each foot of distance from the lot line.

**6.12 LOT AREA AND DIMENSIONS.** Within a CR zone there are no minimum lot area or dimension requirements.

**6.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within a CR zone:

- (a) Along the full extent of each lot line abutting a street or roadway there shall be a required yard five feet in depth.
- (b) Yards for accessory structures except fences shall be the same as for primary buildings.

**6.14 INTERIOR SIDE AND REAR YARDS.** Within a CR zone the following yards shall be provided:

- (a) Adjacent to a side or rear lot line abutting a lot in any residential zone, there shall be a required side or rear yard three feet in depth along the full extent of the side or rear lot line.
- (b) Except as provided in subsection (a) of this section, no interior rear or side yards are required; but any space between a building and another structure, other than a fence, shall be not less than three feet in depth exclusive of any alley area.
- (c) Yard requirements for accessory buildings and structures except fences shall be the same as for main buildings.

**6.20 LANDSCAPING.** Within a CR zone:

- (a) Landscaping shall be provided in any yard abutting a residential zone and in any required front or side yard. Such yard shall be contained by a sight-obscuring fence, wall or hedge at least six feet high.
- (b) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street.—or roadway.
- (c) All outdoor areas used in conjunction with the development or use that are not landscaped shall be paved and drainage provided in accordance with Marion County Department of Public Works standards.
- (d) All required landscape areas shall be landscaped as provided in Chapter 29.

**6.25 SPECIAL REQUIREMENTS ADJACENT TO RESIDENTIAL ZONES.** Any non-residential development established after the adoption of this ordinance abutting a residential, UD, UT, or UTF zone shall meet the following requirements:

- (a) Outdoor storage facilities shall be screened by a sight-obscuring fence, wall or hedge from view of the public road and from adjacent residential property.
- (b) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
- (c) Roof equipment shall be screened from view of nearby residential property.
- ~~(d) Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~

**(d) Special setback and height standards in Section 6.11 and 6.14 (a).**

**6.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b><u>Subdivision and Partition Requirements</u></b>	<b><u>Chapter 33</u></b>

**CHAPTER 7  
COMMERCIAL GENERAL - CG ZONE**

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7.20	Landscaping	
7.25	Special Requirements Adjacent To <u>Within 100 Feet</u> of Residential <u>Residentially Designated</u> Zones	
7.30	Informational Reference to Additional Standards	

\* Word Terms defined in Chapter 49

**7.00 PURPOSE.** The purpose of the CG (Commercial General) zone is to provide areas suitable for warehousing, wholesale commercial sales and services with related outdoor storage or retail sales. The Commercial General zone is appropriate in those areas designated Commercial in the applicable urban area comprehensive plan where the location has access to an arterial street or highway for transport of bulk materials and where impacts associated with permitted uses will not create significant adverse impacts on local streets or residential zones.

**7.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the CG zone:

- (1) One dwelling unit\* or lodging room\* in conjunction with a commercial use.
- (2) Landscape and horticultural SIC 078.
- (3) Construction contractor's offices and related outdoor SIC 15, 16, 17.
- (4) Printing and SIC 27.
- (5) Transportation, communication, electric, gas and sanitary services. SIC 40, 41, 42, 43, 44, 45, 47.
- (6) Communication. SIC 48.
- (7) Wholesale trade. SIC 50 and 51 except scrap and waste materials\* (SIC 5093), livestock (SIC 5154) and chemicals and allied products (SIC 516).
- (8) Building materials, hardware, retail nursery and garden supply and mobile home dealers. SIC 52.
- (9) General merchandise stores. SIC 53.
- (10) Food stores. SIC 54.
- (11) Auto and home supply stores. SIC 553.
- (12) Apparel and accessories stores. SIC 56.
- (13) Home furniture, furnishings and equipment stores. SIC 57.
- (14) Eating and drinking places. SIC 58 except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary.
- (15) Miscellaneous retail. SIC 59.
- (16) Finance, insurance and real estate. SIC 60, 61, 62, 63, 64, 65, 66, 67.
- (17) Hotels and motels. SIC 701.
- (18) Personal services. SIC 72.

- (19) Business services. SIC 73.
- (20) Miscellaneous repair services. SIC 76.
- (21) Amusement and recreation service. SIC 79 except racing (SIC 7948).
- (22) Motion pictures. SIC 78.
- (23) Health services. SIC 80, including Nursing Care Facilities, except hospitals (SIC 806).
- (24) Legal services. SIC 81.
- (25) Educational services. SIC 82.
- (26) Social services. SIC 83.
- (27) Museums, art galleries, botanical and zoological gardens. SIC 84.
- (28) Amusement and recreation services. SIC 79.
- ~~(29) Membership organizations. SIC 86~~
- (30) General government, not elsewhere classified. SIC 919.
- (31) Fire protection. SIC 9224.
- (32) Administration of economic programs. SIC 96.
- (33) National security and international affairs. SIC 97.
- (34) Public Utilities\* including truck parking and material storage yard.
- (35) Recycling depots\*.
- (36) Pet\* Stores.
- (37) Auctions.
- (38) Uses permitted in Chapter 25.
- (39) Signs subject to Chapter 31.
- (40) Ambulance service.
- (41) The following uses subject to the special standards in Chapter 26:
  - (a) Veterinary services. SIC 074 (see Section 26.42).
  - (b) Gasoline service station. SIC 554 (see Section 26.52).
  - (c) Automotive dealers. SIC 55, except gasoline service stations (SIC 554) (see Section 26.58).
  - (d) Automotive repair services and parking. SIC 75 (see Section 26.58).
  - (e) Used merchandise store (see Section 26.48).
  - (f) Religious Organization\* and membership organizations. SIC 86. (see Section 26.60).
  - (g) Mobile food vendors\* (see Section 26.57).

**7.03 PROHIBITED USES.** Within a CG zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 7.01 to 7.02.

**7.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in Chapters 24 and Chapters 26 through 34 apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied. The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**7.11 HEIGHT.** Within a CG zone buildings and structures erected, altered, or enlarged shall not exceed 70 feet in height; provided the portion of any non-residential structure within 20 feet of a side or rear lot line that abuts on a lot in a residential zone shall not project above a plane 12 feet high at the abutting lot line and increasing one foot for each foot of distance from the lot line.

**7.12 LOT AREA AND DIMENSIONS.** Within a CG zone there are no minimum lot area or dimension requirements.

**7.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within a CG zone:

- (a) Along the full extent of each lot line abutting a street ~~or roadway~~, there shall be a required yard five feet in depth.
- (b) Yards for accessory structures except fences shall be the same as for primary buildings.

**7.14 INTERIOR SIDE AND REAR YARDS.** Within a CG zone the following yards shall be provided:

- (a) Contiguous to a side or rear lot line abutting a lot in any residential zone there shall be a required side or rear yard three feet in depth along the full extent of the side or rear lot line. Such yard shall be contained by a sight-obscuring fence, wall or hedge.
- (b) Except as provided in subsection (a) of this section, no interior rear or side yards are required; but any space between a building and another structure, other than a fence, shall be not less than three feet in depth exclusive of any alley area.
- (c) Setbacks for accessory buildings and structures except fences shall be the same as for primary buildings.

**7.20 LANDSCAPING.** Within a CG zone:

- (a) Landscaping shall be provided in any yard abutting a residential zone and in any required front or side yard.
- (b) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street. ~~or roadway.~~
- (c) All outdoor areas used in conjunction with the development or use that are not landscaped shall be paved and drainage provided in accordance with the Marion County Department of Public Works standards.
- (d) All required landscape areas shall be landscaped as provided in Chapter 29.

**7.25 SPECIAL REQUIREMENTS WITHIN 100 FEET OF ADJACENT TO RESIDENTIALLY DESIGNATED ZONES.** Any non-residential development proposed within 100 feet of a residentially **designated zone in the applicable city comprehensive plan**, UD or UT ~~or UTF~~ zone shall meet the following requirements:

- (a) Outdoor storage facilities shall be screened from view of the public road and from adjacent residential property.
- (b) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
- (c) Roof equipment shall be screened from view of nearby residential property.
- ~~(d) Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~

**(d) Special setback and height standards in Sections 7.11 and 7.14 (a).**

**7.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20

Airport Overlay Zone	Chapter 21
<b>Geologically Hazardous Areas Overlay Zone</b>	<b>Chapter 24</b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b>Subdivision and Partition Requirements</b>	<b>Chapter 33</b>



**CHAPTER 8  
HIGHWAY COMMERCIAL - HC ZONE**

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8.25	Special Requirements Adjacent To <u>Within 100 Feet</u> of Residential <u>Residentially Designated</u> Zones	
8.30	Informational Reference to Additional Standards	

\* Word Terms defined in Chapter 49

**8.00 PURPOSE.** The purpose of the HC (HIGHWAY COMMERCIAL) zone is to provide areas suitable for services dependent on a location near a highway intersection or interchange and primarily serving residents of urban areas or the traveling public. The HC (HIGHWAY COMMERCIAL) zone is appropriate on lands designated Commercial or similar designation in the applicable city comprehensive plan and near an intersection with a State highway or a freeway interchange where permitted uses will not create significant adverse impacts on local streets or residential zones.

**8.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the HC zone:

- (1) One dwelling unit\* or lodging room\* in conjunction with a commercial use.
- (2) Transit and highway passenger transportation. SIC 41.
- (3) Trucking, except local. SIC 4213.
- (4) Terminal facilities for motor freight transportation. SIC 4231.
- (5) United States Postal Service. SIC 43.
- (6) Radio, telephone communications. SIC 4812.
- (7) Eating and drinking places. SIC 58 except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary.
- (8) Novelty, souvenir shops. SIC 5947.
- (9) Automatic merchandising, machine operators. SIC 5962.
- (10) Hotels and motels. SIC 7011.
- (11) Utility trailer and recreational vehicle\* rental. SIC 7519.
- (12) The following uses subject to the special standards in Chapter 26:
  - (a) Automotive dealers. SIC 55, except SIC 553, 554 (see Section 26.58).
  - (b) Gasoline service station. SIC 554 (see Section 26.52).
  - (c) Recreational vehicle parks.\* SIC 7033 (see Section 26.40).
  - (d) Religious organization\*. (see Section 26.60).
  - (e) Automotive parking. SIC 7521 (see Section 26.58)

- (f) Automotive repair shops, except top, body, and upholstery repair and paint shops. SIC 7532 (see Section 26.58).
  - (g) Automotive services, except repair. SIC 754 (see Section 26.58).
  - ~~(h) Uses permitted in Chapter 25.~~
  - (h) Mobile food vendors\* (see Section 26.57).
- (13) Food stores (SIC 54) in conjunction with a gasoline service station.
  - (14) Signs subject to Chapter 31.
  - (15) Uses permitted in Chapter 25.**

**8.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit.

- (a) Mobile home dealers. SIC 527.
- (b) Food stores. SIC 54.

**8.03 PROHIBITED USES.** Within an HC zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 8.01 to 8.02.

**8.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and** ~~Chapters 26 through 34~~ apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**8.11 HEIGHT.** Within an HC zone buildings and structures erected, altered, or enlarged shall not exceed 50 feet in height; provided the portion of any non-residential structure within 20 feet of a side or rear lot line that abuts on a lot in a residential zone shall not project above a plane 12 feet high at the abutting lot line and increasing one foot for each foot of distance from the lot line.

**8.12 LOT AREA AND DIMENSIONS.** Within an HC zone there are no minimum lot area or dimension requirements.

**8.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an HC zone:

- (a) Along the full extent of each lot line abutting a street ~~or roadway~~, there shall be a required yard five feet in depth.
- (b) Yards for accessory structures except fences shall be the same as for primary buildings.

**8.14 INTERIOR SIDE AND REAR YARDS.** Within an HC zone the following yards shall be provided:

- (a) Contiguous to a side or rear lot line abutting a lot in any residential zone there shall be a required side or rear yard three feet in depth along the full extent of the side or rear lot line. Such yard shall be contained by a sight-obscuring fence, wall or hedge.
- (b) Except as provided in subsection (a) of this section, no interior rear or side yards are required; but any space between a building and another structure, other than a fence, shall be not less than three feet in depth exclusive of any alley area.

- (c) Setbacks for accessory buildings and structures except fences shall be the same as for primary buildings.

**8.20 LANDSCAPING.** Within an HC zone:

- (a) Landscaping shall be provided in any yard adjacent to a residential zone and in any required front or side yard.
- (b) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street. ~~or roadway~~
- (c) All outdoor areas used in conjunction with the development or use that are not landscaped shall be paved and drainage provided in accordance with Marion County Department of Public Works standards.
- (d) All required landscape areas shall be landscaped as provided in Chapter 29.

**8.25 SPECIAL REQUIREMENTS WITHIN 100 FEET OF ADJACENT TO RESIDENTIALLY DESIGNATED ZONES.** Any non-residential development proposed within 100 feet of a residentially designated zone in the applicable city comprehensive plan, UD or UT or UTF zone shall meet the following requirements:

- (a) Outdoor storage facilities shall be screened by a sight obscuring fence, wall or hedge from view of the public road and from adjacent residential property.
- (b) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
- (c) Roof equipment shall be screened from view of nearby residential property.
- ~~(d) Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~

**(d) Special setback and height standards in Section 8.11 and 8.14(a).**

**8.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b><u>Subdivision and Partition Requirements</u></b>	<b><u>Chapter 33</u></b>

**CHAPTER 9  
INDUSTRIAL COMMERCIAL - IC ZONE**

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9.30	Informational Reference to Additional Standards	

\* Word Terms defined in Chapter 49

**9.00 PURPOSE.** The purpose of the IC (INDUSTRIAL COMMERCIAL) zone is to provide areas suitable for light industrial uses such as warehousing, wholesale commercial sales and services with related outdoor storage or retail sales. The Industrial Commercial zone is appropriate in those areas designated Industrial in the applicable urban area comprehensive plan where the location has access to a collector, arterial street or highway and permitted uses will not create significant adverse impacts on local streets or residential zones.

**9.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the IC zone:

- (1) One dwelling unit\* or lodging room\* in conjunction with a commercial or industrial use.
- (2) Veterinary services. SIC 074.
- (3) Farm labor and management services. SIC 076.
- (4) Landscape and horticultural services. SIC 078.
- (5) Forestry service. SIC 085.
- (6) Construction contractor's offices and related outdoor storage. SIC 15, 16, and 17.
- (7) Dairy products. SIC 202.
- (8) Canned and preserved fruits and vegetables. SIC 203.
- (9) Grain mill products. SIC 204.
- (10) Bakery products. SIC 205.
- (11) Candy and other confectionery products. SIC 2065.
- (12) Chocolate and cocoa products. SIC 2066.
- (13) Chewing gum. SIC 2067.
- (14) Beverages. SIC 208.
- (15) Miscellaneous food preparations and kindred products. SIC 209.
- (16) Tobacco products. SIC 21.
- (17) Textile mill products. SIC 22.
- (18) Apparel and other finished products made from fabrics and similar materials. SIC 23.
- (19) Wood kitchen cabinets. SIC 2434.
- (20) Paperboard containers and boxes. SIC 265.
- (21) Printing, publishing, and allied industries. SIC 27.

- (22) Leather and leather products. SIC 31 except leather tanning and finishing (SIC 311).
- (23) Metal cans and shipping containers. SIC 341.
- (24) Cutlery, hand tools and general hardware. SIC 342.
- (25) Plumbing and heating, except electric. SIC 343.
- (26) Computer, and office equipment. SIC 357.
- (27) Electronic and other electrical equipment, and computers. SIC 36 except storage batteries (SIC 3691) and primary batteries, dry and wet (SIC 3692).
- (28) Motor vehicles and motor vehicle equipment. SIC 371.
- (29) Aircraft and parts. SIC 372.
- (30) Measuring, analyzing, and controlling instruments; medical and optical goods; watches and clocks. SIC 38 except photographic equipment and supplies (SIC 386).
- (31) Signs and advertising specialties SIC 3993.
- (32) Transportation, communication, electric, gas and sanitary services. SIC 40, 41, 42, 43, 44, 45, 47, 48, and 49.
- (33) Wholesale trade. SIC 50, 51 except scrap and waste materials (SIC 5093), livestock (SIC 5154), and chemicals and allied products (SIC 516).
- (34) Building materials, hardware, garden supply and mobile home dealers. SIC 52.
- (35) General merchandise stores. SIC 53.
- (36) Food stores. SIC 54.
- (37) Automotive dealers. SIC 55.
- (38) Apparel and accessories stores. SIC 56.
- (39) Furniture, home furnishings, and equipment stores. SIC 57.
- (40) Eating and drinking places. SIC 58 except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary.
- (41) Miscellaneous retail. SIC 59.
- (42) Finance, insurance and real estate. SIC 60, 61, 62, 63, 64, 65, 66, 67.
- (43) Personal services. SIC 72.
- (44) Business services. SIC 73.
- (45) Automotive repair services and parking. SIC 75.
- (46) Miscellaneous repair services. SIC 76.
- (47) Motion pictures. SIC 78.
- (48) Amusement and recreation service. SIC 79 except racing (SIC 7948).
- (49) Health services. SIC 80, except **nursing care facilities (SIC 805) and** hospitals (SIC 806), ~~and nursing and personal care facilities (SIC 805).~~
- (50) Legal services. SIC 81.
- (51) Educational services. SIC 82.
- (52) Social services. SIC 83, except residential care (SIC 836).
- (53) Museums, art galleries, botanical and zoological gardens. SIC 84.
- (54) Miscellaneous services. SIC 89.
- (55) General government, not elsewhere classified. SIC 919.
- (56) Fire protection. SIC 9224.
- (57) Administration of economic programs. SIC 96.
- (58) National security and international affairs. SIC 97.
- (59) ~~Public utility facilities\*.~~
- (60) Signs subject to Chapter 31.
- (61) Uses permitted in Chapter 25.
- (62) Auctions.
- (63) **Public utilities\*** - secondary truck parking and material storage yard.
- (64) Ambulance Service.
- (65) Mobile food vendors subject to Section 26.57.

**9.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (1) Animal specialty services. SIC 0752.
- (2) Crude petroleum and gas extraction. SIC 131.
- (3) Millwork. SIC 2431.
- (4) Structural wood members, not elsewhere classified. SIC 2439.
- (5) Wooden containers. Section 244.
- (6) Miscellaneous wood products. SIC 249.
- (7) Furniture and fixtures. SIC 25.
- (8) Chemicals and allied products. SIC 28 except miscellaneous chemical products (SIC 289).
- (9) Rubber and plastics footwear. SIC 302.
- (10) Fabricated rubber products, not elsewhere classified. SIC 306.
- (11) Miscellaneous plastics products. SIC 308.
- (12) Leather tanning and finishing. SIC 311.
- (13) Enameled iron and metal sanitary ware. SIC 3431.
- (14) Plumbing fixture fittings and trim (brass goods). SIC 3432.
- (15) Screw machine products and bolts, nuts, screws, rivets, and washers. SIC 345.
- (16) Metal forgings and stampings. SIC 346.
- (17) Electroplating, plating, anodizing, and coloring. SIC 3471.
- (18) Miscellaneous fabricated metal products. SIC 349.
- (19) Metalworking machinery and equipment. SIC 354.
- (20) Woodworking machinery. SIC 3553.
- (21) Refrigeration and service industry machinery. SIC 358.
- (22) Ship and boat building and repairing. SIC 373.
- (23) Jewelry, silverware and patch ware. SIC 391.
- (24) Costume jewelry, costume novelties, buttons, and miscellaneous notions, except precious metals. SIC 396.
- (25) Solid waste transfer stations\*.
- (26) Recreational vehicle park\* (see Section 26.40)

**9.03 PROHIBITED USES.** Within an IC zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 9.01 to 9.02.

**9.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and Chapters 26 through 34** apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**9.11 HEIGHT.** Within an IC zone buildings and structures erected, altered, or enlarged shall not exceed 70 feet in height; provided any portion of a non-residential structure within 20 feet of a side or rear lot line that abuts on a lot in a residential zone shall not project above a plane 12 feet high at the abutting lot line and increasing one foot for each foot of distance from the lot line.

**9.12 LOT AREA AND DIMENSIONS.** Within an IC zone there are no minimum lot area or dimension requirements.

**9.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an IC zone:

- (a) Along the full extent of each lot line abutting a street ~~or roadway~~, there shall be a required yard five feet in depth.

- (b) Yards for accessory structures except fences shall be the same as for primary buildings.

**9.14 INTERIOR SIDE AND REAR YARDS.** Within a IC zone the following yards shall be provided:

~~(a) Contiguous to a side or rear lot line abutting a lot in any residential zone there shall be a required side or rear yard three feet in depth along the full extent of the side or rear lot line. Such yard shall be contained by a sight-obscuring fence, wall or hedge.~~

**(a) Contiguous to a side or rear lot line abutting a lot in any residential zone a five foot side or rear yard shall be required. This yard shall be contained by a sight-obscuring fence, wall or hedge.**

(b) Except as provided in subsection (a) of this section, no interior rear or side yards are required; but any space between a building and another structure, other than a fence, shall be not less than three feet in depth exclusive of any alley area.

(c) Yards for accessory buildings and structures except fences shall be the same as for primary buildings.

**9.20 LANDSCAPING.** Within an IC zone:

(a) Landscaping shall be provided in any yard adjacent to a residential zone and in any required front or side yard.

(b) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone, or a street. ~~or roadway.~~

(c) All required landscape areas shall be landscaped as provided in Chapter 29.

**9.25 SPECIAL REQUIREMENTS WITHIN 100 FEET OF ADJACENT TO RESIDENTIALLY DESIGNATED ZONES.** Any non-residential development proposed within 100 feet of a residentially **designated zone in the applicable city comprehensive plan**, UD or UT or UTF zone shall meet the following requirements:

(a) Outdoor storage facilities shall be screened from view of the public road and from adjacent residential property.

(b) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.

(c) Roof equipment shall be screened from view of nearby residential property.

~~(d) Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~

**(d) Special setback and height standards in Section 9.11 and 9.14 (a).**

**9.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>

General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b><u>Subdivision and Partition Requirements</u></b>	<b>Chapter 33</b>



**CHAPTER 10  
INDUSTRIAL PARK - IP ZONE**

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10.24	Special Requirements Adjacent To <u>Within 100 Feet</u> of Residential <u>Residentially Designated</u> Zones	
10.25	Open Storage	
<del>10.26 .29</del>	<del>Reserved</del>	
10.30	Informational Reference to Additional Standards	

\* Word Terms defined in Chapter 49

**10.00 PURPOSE.** The purpose of the IP (INDUSTRIAL PARK) zone is to provide areas suitable for warehousing, secondary processing, packaging and fabricating of finished goods and equipment, incidental sales, conducted entirely within a building. The IP zone is appropriate in those areas designated Industrial in the applicable urban area comprehensive plan, where the location has public sewer and water service, access to a collector or arterial street, and where permitted industries would be appropriate. The intent is to use this zone on acreage where clustering a number of industries in a landscaped environment with limited access to public streets will make development more compatible with surrounding land uses.

**10.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the IP zone:

- (1) Plumbing, heating (except electric) and air conditioning. SIC 171.
- (2) Painting, paper hanging and decorating. SIC 172.
- (3) Electric work. SIC 173.
- (4) Roofing and sheet metal work. SIC 176.
  
- (5) Installation and erection of building equipment, not elsewhere classified. SIC 1796.
- (6) Dairy products. SIC 202.
- (7) Beverages. SIC 208.
- (8) Tobacco manufacturing. SIC 21.
- (9) Textile mill products. SIC 22 except miscellaneous textile goods (SIC 229).
- (10) Apparel and other finished products made from fabrics and similar materials. SIC 23.
- (11) Printing, publishing and allied industries. SIC 27.
- (12) Leather and leather goods. SIC 31 except leather tanning and finishing (SIC 311).

- (13) Products of purchased glass. SIC 323.
- (14) Cutlery, hand tools and general hardware. SIC 342.
- (15) Electrical and electronic equipment, machinery and supplies. SIC 36 except storage batteries (SIC 3691) and primary batteries, dry and wet (SIC 3692).
- (16) Guided missiles, space vehicles and parts. SIC 376.
- (17) Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks. SIC 38.
- (18) Sign and advertising display businesses. SIC 3993.
- (19) Fabricated structural metal products. SIC 344.
- (20) Local and suburban passenger. SIC 411.
- (21) Public warehousing. SIC 422.
- (22) Automotive parts and supplies. SIC 5013.
- (23) Furniture and home furnishings. SIC 502.
- (24) Sporting, recreational, photographic and hobby goods, toys and supplies. SIC 504.
- (25) Electrical goods. SIC 506.
- (26) Hardware, and plumbing and heating equipment and supplies. SIC 507.
- (27) Commercial machines and equipment. SIC 5081.
- (28) Professional equipment and supplies. SIC 5086.
- (29) Service establishment equipment and supplies. SIC 5087.
- (30) Transportation equipment and supplies, except motor vehicles. SIC 5088.
- (31) Jewelry, watches, diamonds and other precious stones. SIC 5094.
- (32) Drugs, drug proprietaries and druggists' sundries. SIC 512.
- (33) Apparel, piece goods and notions. SIC 513.
- (34) Groceries, general line. SIC 5141.
- (35) Frozen foods. SIC 5142.
- (36) Dairy products. SIC 5143.
- (37) Confectionery. SIC 5145.
- (38) Beer, wine and distilled alcoholic beverages. SIC 518.
- (39) Tobacco and tobacco products. SIC 5194.
- (40) Paints, varnishes and supplies. SIC 5198.
- (41) Nondurable goods, not elsewhere classified. SIC 5199 except baling of wood shavings for mulch, cordwood, animal and vegetable greases, nursery stock, animal and vegetable oils (except cooking), rennet, crude rubber and every other use which may be classifiable but is not specifically listed in the description or descriptive list for SIC 5199.
- (42) Power laundries, family and commercial. SIC 7211.
- (43) Dry cleaning plants, except rug cleaning, SIC 7216.
- (44) Dwelling unit\* or lodging room\* for a caretaker or watchman on the premises being cared for or guarded.
- (45) Recycling depots\*.
- (46) **Public** utilities\* - primary equipment and storage yard.
- (47) Carpet and upholstery cleaning. SIC #7217.
- (48) Industrial launderers. SIC 7218.
- (49) Laundry and garment services, not elsewhere classified. SIC 7219.
- (50) Business services. SIC 73.
- (51) Disinfecting and exterminating service. SIC 7342.
- (52) Cleaning and maintenance services to dwellings and other buildings, not elsewhere classified. SIC 7349.
- (53) Research and development. SIC 7391.
- (54) Crematories.
- (55) Photo finishing laboratories. SIC 7395.
- (56) Repair shops and related services, not elsewhere classified. SIC 7699.
- (57) Vocational schools; except vocational high schools, not elsewhere classified. SIC 8249.
- (58) Child day care services. SIC 835.

- (59) Miscellaneous services. SIC 89.
- (60) Fire protection. SIC 9224.
- (61) Uses permitted in Chapter 25.
- (62) Signs subject to Chapter 31.
- (63) Parcel delivery services.
- (64) Recreational facilities for employees.
- ~~(65) Public utility\*.~~
- (65) The following uses subject to the special standards in Chapter 26:

- (a) Mobile food vendors\* (see Section 26.57).

**10.02 CONDITIONAL USES.** The following uses, may be permitted subject to obtaining a conditional use permit:

- (1) Crude petroleum and natural gas extraction. SIC 131.
- (2) Carpeting and flooring. SIC 175.
- (3) Food and kindred products. SIC 20.
- (4) Miscellaneous textile goods. SIC 229.
- (5) Lumber and wood products, except furniture. SIC 24.
- (6) Furniture and fixtures. SIC 25.
- (7) Paper and allied products. SIC 26.
- (8) Chemicals and allied products. SIC 28.
- (9) Rubber and miscellaneous plastics products. SIC 30 except tires and inner tubes (SIC 301) and reclaimed rubber (SIC 303).
- (10) Leather tanning and finishing. SIC 311.
- (11) Flat glass. SIC 321.
- (12) Glass and glassware, pressed or blown. SIC 322.
- (13) Pottery and related products. SIC 326.
- (14) Cut stone and stone products. SIC 328.
- (15) Miscellaneous non-metallic mineral products. SIC 329.
- (16) Fabricated metal products, except machinery and transportation equipment. SIC 34.
- (17) Machinery, except electrical. SIC 35.
- (18) Storage batteries. SIC 3691.
- (19) Primary batteries, dry and wet. SIC 3692.
  
- (20) Transportation equipment. SIC 37.
- (21) Miscellaneous manufacturing industries. SIC 39 except signs and advertising displays (SIC 3993).
- (22) Electric services. SIC 491.
- (23) Gas production and distribution. SIC 492.
- (24) Wholesale durable goods, not elsewhere classified. SIC 5099.
- (25) Chemicals and allied products. SIC 516.
- (26) Petroleum and petroleum products. SIC 517.
- (27) Solid waste transfer station\*.
- (28) Finance, insurance and real estate. SIC 60, 61, 62, 63, 64, 65, 66, 67.

**10.03 PROHIBITED USES.** Within an IP zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 10.01 to 10.02.

**10.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapter 24 and Chapters 26 through 34** apply to all lots, structures and

uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**10.11 HEIGHT.** Within an IP zone buildings and structures erected, altered, or enlarged shall not exceed 45 feet in height.

**10.12 LOT AREA AND DIMENSIONS.** Within an IP zone there are no minimum lot area or dimension requirements for lots less than 20 acres. At least one parcel with a minimum lot area of 20 acres shall be retained if the parcel is more than 20 acres at the time this ordinance is adopted. It is the intent of the 20-acre minimum lot area to preserve large parcels for major planned industrial developments.

**10.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an IP zone:

- (a) Along the full extent of each lot line abutting a street ~~or roadway~~, there shall be a required yard twenty feet in depth.
- (b) Yards for accessory buildings and structures except fences shall be the same as for primary buildings.
- (c) No parking is allowed in required front yards, and yards adjacent to a street. ~~or roadway~~.

**10.14 INTERIOR SIDE AND REAR YARDS.** Within an IP zone the following interior side and rear yards shall be provided:

- (a) Except as provided in (b), abutting an interior side or rear lot line ~~there shall be a required side or rear yard ten feet in depth~~ **shall be required.** ~~This~~ Such yard shall be contained by a sight-obscuring fence, wall or hedge if abutting a residential zone.
- (b) No side or rear yard is required abutting a railroad siding or spur track.
- (c) Yards for accessory buildings and structures except fences shall be the same as for primary buildings.

**10.20 LANDSCAPING.** Within an IP zone:

- (a) Landscaping shall be provided in any yard adjacent to a residential zone and in any required front or side yard.
- (b) A landscaped area at least 20 feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone, or a street. ~~or roadway~~.
- (c) All required landscape areas shall be landscaped as provided in Chapter 29.

**10.22 OPEN STORAGE.** Within an IP zone:

- (a) Open storage of materials used for the manufacture or assembly of goods, and equipment is prohibited in required yards, but is otherwise permitted provided that such storage is enclosed with a sight-obscuring fence, wall or hedge, or a berm; any of which shall be located on the property at the required setback line in the same manner as if such berm, fence, wall or hedge were a building.
- (b) Materials and equipment stored as permitted in this section shall be no more than 14 feet in height above the elevation of the storage area.
- (c) Open storage over six feet in height above the elevation of the storage area shall be screened by landscaping.

**10.24 SPECIAL REQUIREMENTS WITHIN 100 FEET OF ADJACENT TO RESIDENTIALLY DESIGNATED ZONES.** Any non-residential development proposed within 100 feet of a residentially **designated zone in the applicable city comprehensive plan**, UD or UT or UTF zone shall meet the following requirements:

- (a) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
- (b) Roof equipment shall be screened from view of nearby residential property.
- (c) ~~Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~

**10.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b><u>Subdivision and Partition Requirements</u></b>	<b><u>Chapter 33</u></b>

**CHAPTER 11**  
**GENERAL INDUSTRIAL - IG ZONE**

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11.13	Front Yards and Yards Adjacent to Streets	
11.14	Interior Side and Rear Yards	
11.20	Landscaping	
11.24	Special Requirements Adjacent To <u>Within 100 Feet</u> of Residential <u>Residentially Designated</u> Zones	
11.30	Informational Reference to Additional Standards	

\* ~~Word~~ **Terms** defined in Chapter 49

**11.00 PURPOSE.** The purpose of the IG (General Industrial) zone is to provide areas suitable for warehousing, secondary processing and packaging and fabricating of finished goods and equipment with related outdoor storage and incidental sales. The General Industrial zone is appropriate in those areas designated Industrial in the applicable urban area comprehensive plan where the location has access to an arterial street or highway and where permitted uses will not create significant adverse impacts on local and collector streets and residential zones.

**11.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the IG zone::

- (1) Dwelling unit\* or lodging room\* for a caretaker or watchman on the premises being cared for or guarded.
- (2) Agricultural services. SIC 07.
- (3) Construction contractor's offices and related outdoor storage. SIC 15, 16, 17.
- (4) Food and kindred products. SIC 20 except meat products (SIC 201).
- (5) Tobacco products. SIC 21.
- (6) Textile products and apparel. SIC 22, 23.
- (7) Millwork. SIC 2431.
- (8) Wood kitchen cabinets. SIC 2434.
- (9) Structural wood members, not elsewhere classified. SIC 2439.
- (10) Wood containers. SIC 244.
- (11) Wood buildings and mobile homes. SIC 245.
- (12) Wood products, not elsewhere classified. SIC 2499.
- (13) Furniture and fixtures. SIC 25.
- (14) Paper and allied products. SIC 26 except pulp, paper and paperboard mills (SIC 261, 262, 263, 266).
- (15) Signs subject to Chapter 31.
- (16) Printing, publishing and allied industries. SIC 27.
- (17) Chemicals and allied products. SIC 28 except agricultural chemicals (SIC 287) and miscellaneous chemical products (SIC 289).

- (18) Rubber and miscellaneous plastics products. SIC 30.
- (19) Leather and leather products. SIC 31 except leather tanning and finishing (SIC 311).
- (20) Stone, clay, glass products except cement. SIC 324; structural clay products (SIC 325), concrete, gypsum and plaster products (SIC 327), and abrasive, asbestos and miscellaneous non-metallic mineral products (SIC 329).
- (21) Fabricated metal products. SIC 34 except ordnance and accessories (SIC 348).
- (22) Machinery and equipment manufacturers. SIC 35.
- (23) Electrical and electronic machinery, equipment and supplies except storage batteries. SIC 3691 and primary batteries (SIC 3692).
- (24) Transportation equipment. SIC 37.
- (25) Instruments; photographic, medical and optical goods. SIC 38.
- (26) Miscellaneous manufacturing industries. SIC 39.
- (27) Transportation, communications, electric, gas and sanitary services. SIC 40, 41, 42, 43, 44, 45, 46, 47, 48, 49.
- (28) Wholesale trade. SIC 50 and 51 except scrap and waste materials establishments (SIC 5093) and livestock (SIC 5154).
- (29) Eating and drinking places. SIC 58 except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary.
- (30) Fuel and ice dealers. SIC 598.
- (31) Laundry, cleaning and garment services. SIC 721.
- (32) Outdoor advertising services. SIC 7312.
- (33) Mailing, reproduction, commercial art and photography, graphic services. SIC 733.
- (34) Disinfecting and exterminating services. SIC 7342.
- (35) Cleaning and maintenance services to dwellings and other buildings, not elsewhere classified. SIC 7349.
- (36) Research and development laboratories. SIC 7391.
- (37) Management, consulting and public relations services. SIC 7392.
- (38) Photofinishing laboratories. SIC 7395.
- (39) Commercial testing laboratories. SIC 7397.
- (40) Automotive repair, services, and garages. SIC 75.
- (41) Welding repair. SIC 7692.
- (42) Repair shops and related services not elsewhere classified. SIC 7699.
- (43) Biomass facility\* subject to the special requirements in Section 26.76.
- (44) Crematories.
- (45) ~~Public utility\*.~~
- (45) Vocational school except vocational high schools, not elsewhere classified. SIC 8249.
- (46) Fire protection. SIC 9224.
- (47) Auctions.
- (48) **Public utilities\*** - truck and equipment storage and parking, and material storage yard.
- (49) Recycling depots\*.
- (50) Uses permitted in Chapter 25.
- (51) The following use subject to the special standards in Chapter 26:
  - (a) Mobile food vendors\* (see Section 26.57).

**11.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (a) Scrap and waste materials\* (see Section 26.54).
- (b) Wrecking yards\*.
- (c) Solid waste disposal site subject to Chapter 32.
- (d) Surface mining subject to Chapter 32.
- (e) Solid waste transfer station\*.
- (f) Lumber and wood products. SIC 24.

**11.03 PROHIBITED USES.** Within an IG zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 11.01 to 11.02.

**11.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and Chapters 26 through 34** apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**11.11 HEIGHT.** Within an IG zone buildings and structures erected, altered, or enlarged shall not exceed 70 feet in height provided; any portion of a non-residential structure within 30 feet of a side or rear lot line that abuts on a lot in a residential zone shall not project above a plane 12 feet high at the abutting lot line and increasing one foot for each foot of distance from the lot line.

**11.12 LOT AREA AND DIMENSIONS.** Within an IG zone there are no minimum lot area or dimension requirements.

**11.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an IG zone:

- (a) Along the full extent of each lot line abutting a street ~~or roadway~~, there shall be a required yard five feet in depth.
- (b) Yards for accessory buildings and structures except fences shall be the same as for primary buildings.

**11.14 INTERIOR SIDE AND REAR YARDS.** Within an IG zone the following interior side and rear yards shall be provided:

- (a) Adjacent **Contiguous** to a side lot line abutting a lot in any residential zone ~~there shall be a required five foot side or rear yard will be required. the same as is required in the abutting residential zone. Such~~ **This yard shall be contained by a sight-obscuring fence, wall or hedge.**
- ~~(b) Adjacent to a rear lot line abutting a lot in any residential zone there shall be a required rear yard of three feet along the full extent of the rear lot line. Such yard shall be contained by a sight-obscuring fence, wall or hedge.~~
- (b) Except as provided in subsection (a) ~~and (b)~~ of this section, no side or rear yard is required, but any space between a building and another structure, other than a fence, shall be not less than three feet in depth, exclusive of any alley areas.
- (c) No side or rear yard is required abutting a railroad siding or spur track.
- (d) Setbacks for accessory buildings and structures except fences shall be the same as for primary buildings.

**11.20 LANDSCAPING.** Within an IG zone:

- (a) Landscaping shall be provided in any yard adjacent to a residential zone and in any required front or side yard.
- (b) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street. ~~or roadway.~~
- (c) All required landscape areas shall be landscaped as provided in Chapter 29.

**11.24 SPECIAL REQUIREMENTS WITHIN 100 FEET OF ADJACENT TO RESIDENTIALLY DESIGNATED ZONES.** Any non-residential development proposed within 100 feet of a residentially



designated zone in the applicable city comprehensive plan, UD or UT or UTF zone shall meet the following requirements:

- (a) Outdoor storage facilities shall be screened from view of the public road and from adjacent residential property.
- (b) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
- (c) Roof equipment shall be screened from view of nearby residential property.
- ~~(d) Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~
- (d) Special setback and height standards in Sections 11.11 and 11.14 (a).**

**11.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
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**CHAPTER 12**  
**HEAVY INDUSTRIAL - IH ZONE**

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\* Word Terms defined in Chapter 49

**12.00 PURPOSE.** The purpose of the IH (Heavy Industrial) zone is to provide areas suitable for primary and secondary processing, manufacturing and remanufacturing or reprocessing of all types, with related outdoor storage and incidental sales. The Heavy Industrial zone is appropriate in those areas designated Industrial in the applicable urban area comprehensive plan where the location has access to an arterial street or highway and where permitted uses will not create significant adverse impacts on local or collector streets and residential, commercial or other non-industrial uses in the area.

**12.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the IH zone:

- (1) Dwelling unit\* or lodging room\* for a caretaker or watchman on the premises being cared for or guarded.
- (2) Oil and gas field services. SIC 138.
- (3) Food and kindred products. SIC 20.
- (4) Tobacco manufacturers. SIC 21.
- (5) Textile products and apparel. SIC 22, 23.
- (6) Lumber and wood products. SIC 24.
- (7) Furniture and fixtures. SIC 25.
- (8) Paper and allied products. SIC 26.
- (9) Chemicals and allied products. SIC 28.
- (10) Petroleum refining and related industries. SIC 29.
- (11) Rubber and miscellaneous plastic products. SIC 30.
- (12) Leather and leather products. SIC 31.
- (13) Stone, clay and glass products. SIC 32.
- (14) Primary metal industries. SIC 33.
- (15) Fabricated metal products. SIC 34.
- (16) Machinery and equipment. SIC 35.
- (17) Electric and electronic equipment. SIC 36.
- (18) Transportation equipment. SIC 37.
- (19) Instruments; photographic, medical, and optical goods. SIC 38.
- (20) Miscellaneous manufacturing. SIC 39.
- (21) Transportation, communication, electric, gas and sanitary services. SIC 40, 41, 42, 43, 44, 45, 46,

- 47, 48, 49.
- (22) Wholesale trade. SIC 50, 51.
  - (23) Eating and drinking places. SIC 58 in conjunction with an industrial use, except mobile food vendors located within the Woodburn Urban Growth Boundary and the Salem/Keizer Urban Growth Boundary.
  - (24) Fire protection. SIC 9224.
  - (25) Recycling depots\*.
  - (26) Solid waste transfer station\*.
  - (27) Wrecking yards\*.
  - (28) Uses permitted in Chapter 25.
  - (29) Signs subject to Chapter 31.
  - (30) Scrap and waste materials establishment\* subject to Section 26.54.
  - (31) Biomass facility\* subject to Section 26.74.
  - (32) The following use subject to the special standards in Chapter 26:
    - (a) Mobile food vendors\* (see Section 26.57).

**12.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (a) Solid waste disposal site subject to Chapter 32.
- (b) Surface mining subject to Chapter 32.

**12.03 PROHIBITED USES.** Within an IH zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 12.01 to 12.02.

**12.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and Chapters 26 through 34** apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**12.11 HEIGHT.** Within an IH zone buildings and structures erected, altered, or enlarged shall not exceed 70 feet in height; provided any portion of a non-residential structure within 30 feet of a side or rear

lot line that abuts on a lot in a residential zone shall not project above a plane 12 feet high at the abutting lot line and increasing one foot for each foot of distance from the lot line.

**12.12 LOT AREA AND DIMENSIONS.** Within an IH zone there are no minimum lot area or dimension requirements.

**12.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within an IH zone:

- (a) Along the full extent of each lot line abutting a street ~~or roadway~~, there shall be a required yard five feet in depth.
- (b) Yards for accessory buildings and structures except fences shall be the same as for primary buildings.

**12.14 INTERIOR SIDE AND REAR YARDS.** Within an IH zone the following interior side and rear yards shall be provided:

- (a) ~~Adjacent~~ **Contiguous** to a side lot line abutting a lot in any residential zone ~~there shall be a required **five foot side or rear yard shall be required.** the same as is required in the abutting residential zone. Such **This**~~ yard shall be contained by a sight-obscuring fence, wall or hedge.
- ~~(b) Adjacent to a rear lot line abutting a lot in any residential zone there shall be a required rear yard of three feet along the full extent of the rear lot line. Such yard shall be contained by a sight-obscuring fence, wall or hedge.~~
- (c) Except as provided in subsection (a) ~~and (b)~~ of this section, no side or rear yard is required, but any space between a building and another structure, other than a fence, shall be not less than three feet in depth, exclusive of any alley areas.
- (d) No side or rear yard is required abutting to a railroad siding or spur track.
- (e) Yards for accessory buildings and structures except fences shall be the same as for primary buildings.

**12.20 LANDSCAPING.** Within an IH zone:

- (a) Landscaping shall be provided in any yard abutting a residential zone and in any required front or side yard.
- (b) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway, and a lot in a residential zone or a street. ~~or roadway.~~
- (c) All required landscape areas shall be landscaped as provided in Chapter 29.

**12.25 SPECIAL REQUIREMENTS WITHIN 100 FEET OF ADJACENT TO RESIDENTIALLY DESIGNATED ZONES.** Any non-residential development proposed within 100 feet of a residentially **designated zone in the applicable city comprehensive plan,** UD or UT or UTF zone shall meet the following requirements:

- (a) Outdoor storage facilities shall be screened from view of the public road and from adjacent residential property.
- (b) Exterior lighting shall be designed to illuminate the site and be directed away from public streets and residential properties.
- (c) Roof equipment shall be screened from view of nearby residential property.
- ~~(d) Noise generated by non-residential development and associated activity shall not exceed the standards in OAR 340-35 Addendum A.~~

**(d) Special setback and height standards in Sections 12.11 and 12.14 (a).**

**12.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary,	

Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
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**CHAPTER 13**  
**URBAN TRANSITION - UT ZONE**

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\* Word Terms defined in Chapter 49

**13.00 PURPOSE.** The UT (URBAN TRANSITION) zone is intended to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not have available urban facilities such as sanitary sewer, water, drainage and streets. The zone allows the continuation of legally established uses and establishment of uses compatible with the plan designation. In areas planned for development relying on urban services transitional uses may be allowed which will not interfere with the efficient, later use of the land for planned urban uses.

The zone is appropriate in areas designated in the applicable urban area comprehensive plan for future urban residential development, but may also be used to protect lands designated for future commercial, industrial or public uses. In areas designated for urban residential development the residential density included in the zone is intended to be consistent with the average lot size of the immediate area. In areas planned for other uses the zone is intended to retain lot sizes conducive to efficient development of planned uses and prevent conflicts associated with development of additional dwellings.

**The zone is also intended to encourage the continued practice of commercial agriculture in areas planned for future urban development. The UT Zone is intended to be a farm zone consistent with ORS 215.203.**

**13.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the UT zone:

- (a) Lawful uses existing on a property at the time of the effective date of this zone. Expansion or replacement of **non-residential uses**, such uses are **is** regulated by Section 13.02 (a).
- (b) Farm use\*
- (c) The **propagation**, management or harvesting of forest products provided that harvesting of forest products which would otherwise be regulated under the Forest Practices Act if located in a forest zone

shall comply with the requirements of the Forest Practices Act. Exceptions to Forest Practices Act requirements may be approved as a major adjustment under Chapter 41.

- ~~(d) The breeding, boarding, and training of horses.~~
- (d) Child day care home\* for 12 or fewer children. ~~or less.~~
- (e) The following uses subject to the special standards in Chapter 26:
  - (1) Home occupations limited\* (see Section 26.20).
  - (2) Wind energy conversion system (see Section 26.73)
- (f) Uses permitted in Chapter 25.
- (g) A single-family dwelling or mobile home\* subject to Section 13.30.
- ~~(h) Single family dwelling\* subject to Section 13.30.~~
- (h) Public utilities\* providing services to the local area, such as utility substations, pump stations, reservoirs and low voltage (57 KV or less) electrical transmission lines.
- (i) Signs subject to Chapter 31.
- (j) Bed and Breakfast establishments that do not include more than four lodging rooms and employ no more than one person in the conduct of the home occupation on the subject property ("person" includes volunteer, non-resident employee, partner or any other person).**

**13.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit and compliance with Section 13.30.

- ~~(a) Expansion or replacement of a use permitted under Section 13.01 (a). A conditional use permit is not required to expand or replace a single family dwelling or mobile home if it is determined:~~
  - ~~(1) The dwelling or mobile home meets the setback and height standards of the UT zone, or is no more non-conforming than the existing dwelling or mobile home;~~
  - ~~(2) There is only one dwelling or mobile home on the lot;~~
  - ~~(3) The subject dwelling or mobile home has been occupied within the past 12 months;~~
  - ~~(4) In the case of replacement, the dwelling or mobile home, if not placed on the same footprint, shall be located in such a manner than any significant unused portion of the property has adequate development options and development options on adjacent properties are not significantly restricted. Consideration shall be given to the planned location of public facilities and services in siting a replacement dwelling or mobile home. A mobile home may be replaced only with a mobile home and the replacement mobile home shall meet the requirements in Section 26.903(a).~~
- (b) Commercial activities in conjunction with farm or forest use subject to Section 13.03 (e).
- (c) Exploration, **mining**, and processing of geothermal, or other subsurface resources not used exclusively in conjunction with farm or forest management (see Section 26.75 and 26.76). Surface mining is included subject to Chapter 32. **Includes processing of aggregate into asphalt or Portland cement provided the facility is located more than two miles from a planted vineyard.**

- (d) Public or private power generation facilities (see Sections 26.73, 26.74, 26.75, and 26.76).
- (e) Kennels\*.
- (f) Temporary homes for the infirm subject to Chapter 32.
- (g) Solid waste disposal sites subject to Chapter 32.
- (h) Transmission towers\* and transmission facilities\*.
- (i) **Private or** public parks and playgrounds **servicing the general public.**
- (j) Religious organizations\* (see Section 26.60).
- (k) Public golf courses (SIC 7992) and golf related recreation identified in SIC 7997 and 7999 (see Section 26.32).
- (l) Elementary and secondary schools. SIC 8211 (see Section 26.62.6).
- (m) Public buildings and structures such as libraries, fire stations and public utilities\*.
- (n) Civic, social and fraternal organizations. SIC 864.
- (o) Child day care center **facilities**\* (see Section 26.22).
- (p) **Farm stand subject to the standards in Section 13.03(f).**
- (q) Uses allowed outright or conditionally in the most restrictive zone consistent with the land use designation.
- (r) Home occupations-conditional\* subject to Chapter 32.40.
- (s) **Temporary facility for the primary processing of forest products as defined in ORS 215.**

**13.03 CONDITIONAL USE CRITERIA.** In order to grant approval for a conditional use listed in section 13.02 the criteria in this section must be found to be satisfied **in addition to the criteria in Section 40.02:**

- (a) The use will not increase traffic beyond the capacity of existing roads.
- (b) If the use will remain after the area is urbanized it will be located in such a manner that any significant unused portion of the property has adequate development options. ~~and 2) not restrict development options on adjacent properties.~~
- ~~(c) The use can utilize rural services or the City and County have approved use of existing urban services.~~
- (c) The use and related structures and improvements meet the development standards of the most restrictive zone ~~(other than the UD, UT, or UTF zones)~~ consistent with the applicable comprehensive plan designation; or the city concurs and, if the city requests, conditions are imposed that require the structures and improvements to be brought into conformance with city zoning regulations upon annexation.



- (d) The most restrictive zone used in the applicable comprehensive plan designation (~~other than the UD, UT, and UTF zones~~) lists the proposed use as a permitted or conditional use; or the city concurs and, if the city requests, conditions are imposed which require that the use be brought into conformance with city zoning regulations upon annexation.
- (e) In order to qualify as a commercial activity in conjunction with farm or forest use the use or activity must meet one of the following criteria in addition to the criteria in (a) through (d):
- (1) The commercial activity must be primarily a customer or supplier of farm uses.
  - (2) The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.
  - (3) The agricultural and commercial activities must occur together in the local community.
  - (4) The products and services provided must be essential to the practice of agriculture.
- (1) ~~Preparing farm or forest ground, starting and fostering the natural growth of the agricultural or forest product, and harvesting and transportation of harvest produce or timber including primary processing and packaging necessary to warehouse or ship agricultural produce, when 51% or more of the service is provided to lands not owned or leased by the service provider.~~
- (2) ~~Secondary processing converting a primary agricultural or forest product into another marketable product, and transportation of these products.~~
- (3) ~~Sale of farm products, after primary processing, on a premises where less than 51% of the farm product was raised, and the products sold were raised in Marion County or an abutting county; and, sale of farm products after secondary processing.~~
- (4) ~~Repair and sale of used equipment, and manufacture or sale of farm or forest supplies, when associated with the activities in (1) and at least 51% of the customers will be Marion County residents.~~
- (f) Farm stand subject to the following standards:
- (1) Structures shall be designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
    - (a) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another produce but not prepared food items.
    - (b) As used in this section, "local agricultural area" is limited to the State of Oregon.
  - (2) The sale of incidental retail items and fee-based activities to promote the sale of farm crops or livestock sold at the farm stand are permitted provided the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.

**(3) Farm stand shall not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.**

**13.04 PROHIBITED USES.** Within an UT zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 13.01 to 13.03.

**13.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and Chapters 26 through 34** apply to all lots, structures and uses unless indicated otherwise. If city standards are adopted by the Board the city standards shall apply. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**13.11 HEIGHT.** Within a UT zone the maximum height limit is 35 feet for dwellings, ~~and conditional uses.~~ Other buildings and structures shall not exceed 45 feet in height. Greater height may be **allowed in conjunction with a conditional use.** ~~requested and approved as a conditional use.~~

**13.12 FRONT YARDS AND YARDS ABUTTING STREETS.** Within a UT zone the following front yard and yards abutting streets ~~or roadways~~ shall be provided:

- (a) Along the full extent of each front lot line and lot line abutting a street ~~or roadway~~, there shall be a required yard 20 feet in depth.
- (b) Yards for accessory structures shall be subject to the requirements of Chapter 28.

**13.13 INTERIOR SIDE YARDS.** Within a UT zone the following side yards shall be provided:

- (a) Side yards shall be at least five feet or comply with the side yard requirement for the most restrictive zone used in the applicable Comprehensive Plan designation, which ever is greater.
- (b) Yards for accessory structures shall meet the requirements of Chapter 28 except farm animals and related structures shall not be located closer than 100 feet from a side lot line abutting a residential zone.

**13.14 INTERIOR REAR YARDS.** Within a UT zone the following rear yards shall be provided:

- (a) ~~24~~ **Fourteen** feet for any single family dwelling and for any portion of any other building not more than 15 feet in height; and 30 feet for any portion of a building greater than 15 feet in height other than a single family dwelling.
- (b) Yards for accessory structures shall meet the requirements of Chapter 28 except farm animals and related structures or animal waste storage shall not be located closer than 100 feet from a rear or side lot line abutting a residential zone.

**13.20 LANDSCAPING.** Within a UT zone:

- (a) All portions of required yards lying between a street ~~or roadway~~ and the primary building or between the street ~~or roadway~~ and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.

- (b) All required landscape areas shall be landscaped as provided in Chapter 29.

**13.30 GROWTH MANAGEMENT.** The Comprehensive Plan policies applicable to lands in the UT zone anticipate future city annexation and extension of public facilities and services to lands intended for residential, commercial or industrial use. To facilitate an orderly transition to efficient urban development regulation of land divisions and development proposed prior to urban development is necessary. The development regulations and standards in Sections 13.31, and 13.32 shall apply to land in the UT zone.

**Except as provided below, when land is added to an urban growth boundary the County shall zone it as follows:**

**(a) Residential exception areas shall be placed in an UT-5 zone.**

**(b) Resource land shall be placed in an UT-20 zone.**

**The County may consider applying a different zone for specific properties upon request of the property owner or city. The purpose and intent of the proposed zone must be consistent with the applicable comprehensive plan designation.**

**13.31 DIVISIONS OF LAND.**

- (a) A series partition, subdivision, residential planned development or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes is not permitted in the UT zone.
- (b) The following regulations shall apply when ~~lot~~ **property** line adjustments and partitioning of land regulated by ~~the Subdivision and Partitioning Ordinance- Chapter 33~~ are proposed:
- (1) Additional street right-of-way required by adopted **County** standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.
  - (2) The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.
  - (3) When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in Section 13.32, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.
  - (4) When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. **The Zoning Administrator shall review and approve the redevelopment plan.** ~~The Zoning Administrator shall submit the plan to the city for review and comment. If no response is received within 10 days, or such additional time as requested by the city, the city will be deemed to have no concerns with the proposed redevelopment plan.~~

The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.

- (5) ~~Minimum standards for lots located in a residential plan designation are:~~
  - (a) ~~New lots shall have no dimension less than 100~~ **80** feet.
  - (b) ~~New lots shall have not less than 100 feet of frontage on a dedicated street which shall have a right of way width of not less than 40 feet.~~
- (6) When a lot located in a residential plan designation and occupied by a non-residential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.
- (7) The minimum lot size, in acres, for lots in non-residential plan designations is the numerical suffix added to the UT zone (i.e. 1 acre, 3 acres, 5 acres, 10 acres or 20 acres), or if no suffix is added - 5 acres.

### **13.32 DEVELOPMENT LIMITATIONS AND REQUIREMENTS.**

- (a) **Mobile Home Development.** No new mobile homes are permitted unless the property is designated for residential development in the comprehensive plan and the most restrictive county zone used in the plan designation (~~other than the UT, UTF, and UD zones~~) would permit a mobile home on a lot as an outright permitted use or a conditional use. Approval of a mobile home shall be subject to the **standards in Section 26.03.** ~~applicant signing an agreement requiring removal of the mobile home if the property is subsequently placed in a zone that does not permit mobile homes.~~
- (b) **Dwelling Development.** No new dwellings are permitted unless the area is designated for residential development and the most restrictive county zone used in the Plan designation (~~other than the UT, UTF and UD zones~~) would permit the dwelling as an outright permitted use or a conditional use.
- (c) **Residential Density.** On lots designated for residential development no more than one dwelling unit or mobile home shall be allowed per five acres unless a numerical suffix is added to the zone altering the allowable density to no more than one dwelling unit or mobile home per 1, 3, 10 or 20 acres. The number of dwellings allowed shall be based on the size of the lot at the time the UT zone first applied to the property.
- (d) **Siting of Dwellings.** If a new dwelling is allowed on a lot of more than one acre and less than five acres, and the lot is designated for residential development, the dwelling shall be located in conformance with a redevelopment plan. The redevelopment plan shall demonstrate that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. **The Zoning Administrator shall review and approve the redevelopment plan.** ~~The Zoning Administrator shall submit the plan to the city for review and comment. If no response is received within 10 days, or such additional time as requested by the city, the city will be deemed to have no concerns with the proposed redevelopment plan.~~
- (e) **On-site sewage disposal.** The following conditions shall be met prior to the approval of a use or residence relying on an on-site system for wastewater disposal:
  - (1) The property shall not lie within the boundary of a sewer service district unless allowed in writing by the City.

- (2) The property must lie more than 300 feet in a straight line from any existing sewer line that can be extended to the property to provide gravity sewer service, unless the city agrees in writing to allow on-site sewage disposal.
- (3) The property shall not be served by a city or district water system.
- ~~(4) The property shall have no width or length less than 100 feet.~~
- ~~(5) The property shall have not less than 100 feet of frontage on a dedicated street that shall have a right-of-way of not less than 40 feet.~~
- (4) Applicant shall have obtained from the County Sanitarian a favorable site evaluation to install an on-site sewage disposal system or DEQ approval for another type of sewage disposal.
- (5) **If the city requires**, the applicant shall sign an agreement with the city agreeing to connect the subject development to the public sewer system when the system comes to within 300 feet of the property and can provide gravity service.
- (6) **If the city requires**, the property owner shall provide a signed non-remonstrance agreement with the city for future annexation and sewer or water service by the city.
- ~~(7) The requirements in (4) and (5) do not apply to lots legally created before the applicable city comprehensive plan was first acknowledged or in the case of the Salem/Keizer Urban Growth area before August 1, 1981.~~

(f) **Residences on pre-existing lots.** Notwithstanding subsection (c) a single **family** dwelling or mobile home is permitted on a lot legally created prior to the date the city comprehensive plan was originally acknowledged by LCDC, or in the case of the Salem/Keizer Urban Growth area before August 1, 1981, provided the lot and development complies with all other requirements of this Section.

**13.40 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29
Off-Street Parking & Loading	Chapter 30
<b><u>Subdivision and Partition Requirements</u></b>	<b><u>Chapter 33</u></b>

**CHAPTER 14**  
**URBAN TRANSITION/FARM - UTF ZONE**

**ENTIRE CHAPTER DELETED**

**CHAPTER 15**  
**URBAN DEVELOPMENT - UD ZONE**

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\* ~~Word~~ **Terms** defined in Chapter 49

**15.00 PURPOSE.** The UD (URBAN DEVELOPMENT) zone is intended to provide for urban development consistent with the land use designation in the applicable city comprehensive plan where sanitary services are, or can be made available. Because these areas may not have storm drainage or streets adequate to support development, planned residential uses and other compatible uses may only be established as part of a subdivision, planned development or conditional use permit to ensure that necessary public facilities are provided. If the comprehensive plan authorizes uses more intensive than allowed in the UD zone, a zone change is required to ensure development to adopted urban standards.

**15.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the UD zone:

- (a) Lawful uses existing on a lot when this zone is applied, except as provided in Section 15.02 (a) for expansion and replacement **of non-residential uses.**
- (b) Public and semi-public facilities rendering direct service to local areas, such as fire stations, public utility facilities\* and low voltage (57KV or less) electrical transmission lines.
- (c) On lots designated single family residential in the applicable comprehensive plan:
  - (1) Detached single family dwelling.\*
  - (2) Child day-care home\* for 12 or fewer children.
- (d) Uses permitted in Chapter 25.
- (e) Signs subject to Chapter 31.
- (f) The following uses subject to the special standards in Chapter 26:
  - (1) Home occupations-limited\* (see Section 26.20).

- (2) Boat and recreational vehicle storage (see Section 26.34).
- (3) Planned developments on land designated single family or multiple-family residential in the applicable comprehensive plan, subject to Section 15.30 (see Section 26.800).
- (4) Manufactured home on a lot in the Salem Urban Growth Boundary on land designated single family residential (see Section 26.03).

**15.02 CONDITIONAL USES.** The following uses may be permitted subject to obtaining a conditional use permit:

- (a) Expansion or replacement of **non-residential uses** a use permitted under Section 15.01 (a). ~~subject to meeting the criteria in Section 15.03 (see Section 40.04 (d) for limits on conditions). A conditional use permit is not required to expand or replace a single family dwelling or mobile home if it is determined:~~
  - ~~(1) The dwelling or mobile home meets the setback and height standards of the UD zone, or is no more non-conforming than the existing dwelling or mobile home;~~
  - ~~(2) There is only one dwelling or mobile home on the lot;~~
  - ~~(3) The subject dwelling or mobile home has been occupied within the past 12 months;~~
  - ~~(4) In the case of replacement, the dwelling or mobile home, if not placed on the same footprint, shall be located in such a manner than any significant unused portion of the property has adequate development options, and development options on adjacent properties are not significantly restricted. Consideration shall be given to the planned location of public facilities and service in siting a replacement dwelling or mobile home. A mobile home may be replaced only with a mobile home and the replacement mobile home shall meet the requirements in Section 26.903 (a).~~
- (b) Public parks, playgrounds, public utility facilities\* and other public and semi-public uses, and **private parks and playgrounds serving the general public.**
- (c) If located on property designated for commercial or residential uses in applicable comprehensive plan:
  - (1) Religious organizations. SIC 866 (see Section 26.60).
  - (2) Elementary and secondary schools. SIC 8211 (see Section 26.62).
  - (3) Membership recreation club. SIC 7997 (see Section 26.32).
  - (4) Civic, social and fraternal organizations. SIC 864.
  - (5) Child day care **facilities** center\* (see Section 26.22).
  - (6) Home occupations-conditional\* subject to Chapter 32.40.
- (d) If located on property designated for residential uses in applicable comprehensive plan:
  - (1) Two family shared housing (see Section 26.04).
  - (2) Duplex\* on a corner lot (see Section 26.06).
  - (3) Public golf course. SIC 7992 (see Section 26.32).
  - (4) Residential facility\*.
  - (5) Mobilehome park\* (see Section 26.901)



**15.03 CONDITIONAL USE CRITERIA.** Before a conditional use permit may be approved it must be found that the following criteria applicable to the proposed use will be satisfied in addition to the criteria in Section 40.02:

- (a) The use and related buildings will be located in such a manner that any significant unused portion of the property has adequate development options. ~~and development options on adjacent properties will not be restricted.~~
- (b) For uses other than a single family dwelling, the use independently or together with nearby uses will not require installation of urban facilities identified in Section 40.03 (j), or such facilities will be provided as prescribed in Chapter 40.
- (c) The use meets the development standards of the most restrictive zone used in the applicable Comprehensive Plan designation.
- (d) The use is a permitted or conditional use in the most restrictive zone ~~(other than the UT, UTF or UD zones)~~ used in the applicable comprehensive plan designation.

**15.04 PROHIBITED USES.** Within an UD zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 15.01 to 15.03.

**15.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in Chapters 24 and Chapters 26 through 34 apply to all lots, structures and uses unless indicated otherwise. If city standards are adopted by the Board the city standards shall apply. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**15.11 HEIGHT.** Within a UD zone the maximum height limit is 35 feet for dwellings. ~~and conditional uses.~~ Other buildings and structures shall not exceed 45 feet in height.

**15.12 FRONT YARDS AND YARDS ABUTTING STREETS.** Within a UD zone the following front yards and yards abutting streets shall be provided:

**(a) Within the Salem/Keizer Urban Growth Boundary, along the full extent of each front lot line or lot line abutting a street right-of-way line, there shall be a required yard 12 feet in depth provided, however, garages or carports having a vehicle entrance facing a street right-of-way line shall be set back at least 20 feet from the street right-of-way line. For other urban growth boundaries the required yard shall be 20 feet.**

~~(a) Except as provided in (b) and (c) below, along the full extent of each front lot line and lot line abutting a street or roadway, there shall be a required yard 20 feet in depth.~~

**(b) Notwithstanding the provisions of subsections (a) of this section, there shall be a required yard of 20 feet from the right-of-way of a designated arterial or collector street or from the special setback established in Section 27.21, whichever is greater.**

(c) Yards for accessory structures shall be subject to the requirements of Chapter 28.

(d) Yards shall be as provided in the RS zone for lots in subdivisions and in Section 26.800 for Planned Developments.

**15.13 INTERIOR SIDE YARDS.** Within a UD zone the following side yards shall be provided:

- (a) Except as provided in (b) below side yards shall be at least five feet or the side yard requirement for the most restrictive zone allowed in the appropriate Comprehensive Plan designation, which ever is greater.
- (b) Side yards shall be as provided in the RS zone for lots in subdivisions and in Section 26.800 for Planned Developments approved in the UD zone.

**15.14 INTERIOR REAR YARDS.** Within a UD zone the following rear yards shall be provided:

- (a) Except as provided in (b) and (c) below 14 feet for any single family dwelling; and 20 feet for any portion of a building other than a single family dwelling.
- (b) Setbacks for accessory structures shall meet the requirements of Chapter 28.
- (c) Rear yards shall be as provided in the RS zone for lots in subdivisions and in Section 26.800 for Planned Developments.

**15.20 LANDSCAPING.** Within a UD zone:

- (a) All portions of required yards lying between a street ~~or roadway~~ and the primary building or between the street ~~or roadway~~ and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.
- (b) All required landscape areas shall be landscaped as provided in Chapter 29.

**15.30 DIVISIONS OF LAND.**

- (a) A subdivision, residential planned development or other residential development involving the division of land into four or more lots intended to be occupied by dwellings or mobile homes may be considered on property in the UD zone if: 1) public sewer and water will be available at the time of development, 2) the development complies with the requirements of the RS zone, and 3) the applicable comprehensive plan designation allows residential development of the type and density proposed.
- (b) The following regulations shall apply when lot property line adjustments and partitionings of land within the UD zone as regulated by Chapter 33: the Marion County Subdivision and Partitioning Ordinance are proposed:
  - (1) Existing lots with dwellings: The dwelling and immediately surrounding area may be separated from the remaining property provided:
    - (a) The location of lot lines shall not significantly reduce feasible options for the future location of urban roads or services, or preclude basic development options on the property or adjacent properties. If the applicable comprehensive plan designates the property for single family residential uses a development plan may be required which demonstrates that the proposed division will not preclude future subdivision achieving the median density proposed in the Comprehensive Plan.
    - (b) Any additional street right-of-way required by adopted standards is dedicated along the lot's street frontage.
    - (c) If the dwelling is within 300 feet of a sewer line capable of serving the dwelling the dwelling shall be connected to the sewer.

- (d) Street and drainage improvements applicable to any street abutting the dwelling lot shall be required at the time the remnant parcel is developed through an improvement agreement.
- (2) The minimum lot size for partitionings and lot property line adjustments shall be 6,000 square feet for the dwelling lot. If the dwelling lot is proposed to be larger than 15,000 square feet a redevelopment plan shall be required demonstrating that the proposed dwelling lot meets subsection (1) (a). The location of lot lines on the dwelling lot shall conform to the yard requirements of the RS zone.

**15.31 ZONE CHANGE REQUIREMENT AND AUTOMATIC REZONING.**

- (a) Residential uses not permitted in Section 15.01 (a) or as a conditional use in Section 15.02, and any other use not allowed in the UD zone may only be considered as part of an application for a change to a zone that allows the proposed use.
- (b) Notwithstanding the zone change procedures in this ordinance, upon approval and recordation of a subdivision or planned development or partition plat as prescribed in Chapter 33 ~~the Marion County Subdivision and Partitioning Ordinance~~ the land included in the plat shall automatically be rezoned to the RS (SINGLE FAMILY RESIDENTIAL) zone and the official zoning map shall be amended accordingly, unless the decision approving the plat expressly provides for retention of the UD zone, or a change to another zone is approved as part of a concurrent zone change application.
- (c)
  - (1) Notwithstanding the zone change procedures in this ordinance, upon the effective date of a conditional use permit the lot upon which the approved use is to be located shall automatically be rezoned as provided in Section 15.31(c) (3) and the official zoning map shall be amended accordingly; however, the decision approving the conditional use may expressly provide for retention of the UD zone, expressly limit the zone change to a described portion of the lot, or provide for a change to another zone if approved as part of a concurrent zone change application.
  - (2) Notice of the decision granting a conditional use that includes automatic rezoning shall be provided in the manner required for a decision granting a zone change.
  - (3) Conditional uses approved on property designated for residential uses in the applicable comprehensive plan shall be rezoned to RS (SINGLE FAMILY RESIDENTIAL).

Conditional uses approved on property designated for commercial uses shall be rezoned to CO (COMMERCIAL OFFICE). Conditional uses approved on property designated for Industrial uses shall be rezoned to IC (INDUSTRIAL COMMERCIAL).

**15.40 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
Planned Developments	Chapter 26
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary,	

Accessory, and Temporary Structures	Chapter 28
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<b><u>Subdivision and Partition Requirements</u></b>	<b>Chapter 33</b>

**CHAPTER 16  
PUBLIC - P ZONE**

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\* Word **Terms** defined in Chapter 49

**16.00 PURPOSE.** The purpose of the P (PUBLIC) zone is to provide areas appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. It is intended that this zone be applied to individual parcels shown to be an appropriate location for a certain public or semi-public use.

If the use existing at the time the P zone is applied is discontinued, or if a use proposed at the time the zone is applied is not established, it is the intent that the land be rezoned to conform to surrounding zoning or be devoted to permitted uses. It is not intended that a property zoned Public for one type of use be allowed to change to another use without demonstrating through the conditional use process that the proposed use satisfies the conditional use criteria.

**16.01 USES.** The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the P zone:

- (a) Farm use\*.
- (b) Forest use.
- (c) Uses permitted in Chapter 25.
- (d) Utilities\* except public power generation.
- (e) Signs subject to Chapter 31.
- (f) The following uses subject to the special standards in Chapter 26:
  - (1) Home occupations- limited \* (see Section 26.20).
  - (2) ~~Child day care home\* for 12 children or less (see Section 26.22).~~
  - (2) Elementary and secondary schools. SIC 8211 (see Section 26.62).
  - (3) Religious organizations\* (see Section 26.60).
  - (4) ~~Child day care center~~ **facilities** (see Section 26.22).
  - (5) Senior citizens center, counseling center, and neighborhood center (see Section 26.60).
- (g) Replacement or expansion of legally established uses included in Section 16.02 provided: 1) the use was not established under a conditional use permit expressly requiring approval of expansion or replacement, and 2) the replacement or expansion does not involve lands added to the subject lot as it existed on ~~the effective date of the application of this zone~~ **May 30, 1990.**

**16.02 CONDITIONAL USES.** The following uses may be permitted in a P zone subject to obtaining a conditional use permit:

- (a) Dwellings\* (including mobile homes\*) in conjunction with farm or forest use, or for a caretaker or watchman; or for the staff required for an approved conditional use.
- (b) Local and suburban passenger transportation. SIC 411.
- (c) School buses. SIC 415.
- (d) Terminal and service facilities for motor vehicle passenger transportation. SIC 417.
- (e) U.S. Postal Service. SIC 43.
- (f) Marinas. SIC 4493.
- (g) Transportation by air. SIC 45 and related commercial and industrial use.
- (h) Communication. SIC 48 including related transmission towers.
- (i) Electric, gas and sanitary services. SIC 49.
- (j) Cemeteries, crematoriums and mausoleums. SIC 6553 and 726 (see Section 26.44).
- (k) Commercial sports. SIC 794.
- (l) Public golf courses. SIC 7992 (see Section 26.302).
- (m) Amusement parks. SIC 7996.
- (n) Amusement and recreation services not elsewhere classified. SIC 7999.
- (o) Health services. SIC 80.
- (p) Educational services. SIC 82 and associated industrial uses providing vocational training.
- (q) Social services. SIC 83.
- (r) Museums, art galleries, botanical and zoological gardens. SIC 84.
- (s) Membership organizations. SIC 86.
- (t) Physical fitness facilities. SIC 7991.
- (u) Membership sports and recreation clubs. SIC 7997.
- (v) Engineering, architectural, and surveying services. SIC 871.
- (w) Accounting, auditing, and bookkeeping services. SIC 872.
- (x) Commercial economic, sociological, and educational research. SIC 8732.
- (y) Management and public relations services. SIC 874.
- (z) Executive, legislative and general government. SIC 91.
- (aa) Justice, public order and safety. SIC 92 including correctional facilities.
- (bb) Public finance, taxation and monetary policy. SIC 93.
- (cc) Administration of government program. SIC 94, 95, 96.
- (dd) National security. SIC 971.
- (ee) Parks, playgrounds, parkways, public or private open space.
- (ff) Solid waste disposal site subject to Chapter 32.
- (gg) Surface mining subject to Chapter 32.
- (hh) Hazardous waste disposal facility as defined by State Department of Environmental Quality laws and subject to local land use compatibility criteria in DEQ rules.
- (ii) Transmission facilities.\*
- ~~(jj) Uses permitted in Section 2.01 provided the abutting lots are designated for residential use in the applicable comprehensive plan.~~

**16.03 PROHIBITED USES.** Within a P zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under Section 16.01 to 16.02.

**16.10 DEVELOPMENT STANDARDS.** The standards and regulations in this chapter and the additional standards and regulations referenced in **Chapters 24 and Chapters 26 through 34** apply to all lots, structures and uses unless indicated otherwise. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply.

**16.11 HEIGHT.** Within a P zone:

- (a) Residential buildings shall not exceed 35 feet in height.
- (b) A lot having a width less than 50 feet or an area less than 10,000 square feet shall have no building
- (c) All other buildings and structures shall not exceed 70 feet.
- (d) Structures exempt from height requirements are listed in Chapter 27 and structures with special height requirements in Chapter 28.

**16.12 LOT AREA.** Within a P zone the minimum lot area for uses served by public sewer and water services is 10,000 square feet; 20,000 square feet if served by either sewer or water; and one acre if the use relies on on-site wastewater disposal. Otherwise there is no minimum lot size.

**16.13 FRONT YARDS AND YARDS ABUTTING STREETS.** Within a P zone:

- (a) Along the full extent of each front lot line and lot line abutting a street or roadway, there shall be a required yard 20 feet in depth.
- (b) Yards for accessory structures shall be as provided in Chapter 28.

**16.14 INTERIOR SIDE AND REAR YARDS.** Within a P zone no interior side and rear yards are required except when a side or rear lot line abuts on a residential zone in which case the following setbacks apply to the abutting lot line:

- (a) Five feet for any portion of a building not more than that 35 feet in height.
- (b) For buildings or structures exceeding 35 feet in height the minimum yard width shall be five feet plus one foot for every foot ~~one and one-half feet~~ the structure exceeds 35 feet.
- (c) Setbacks for accessory buildings and structures shall be as provided in Chapter 28.

**16.15 STORAGE.** Within a P zone open outdoor storage of materials or equipment shall be screened from view from the street and adjacent properties by a sight-obscuring fence, wall or hedge.

**16.20 LANDSCAPING.** Within a P zone all required yards shall be landscaped as provided in Chapter 29.

**16.30 INFORMATIONAL REFERENCE TO ADDITIONAL STANDARDS.** Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 19
Greenway Overlay Zone	Chapter 20
Airport Overlay Zone	Chapter 21
<b><u>Geologically Hazardous Areas Overlay Zone</u></b>	<b><u>Chapter 24</u></b>
General Development Standards & Regulations	Chapter 27
Development Standards for Secondary, Accessory, and Temporary Structures	Chapter 28
Landscaping	Chapter 29





**CHAPTER 18**  
**MOBILE HOME OVERLAY ZONE—MH ZONE**

**ENTIRE CHAPTER DELETED**

**CHAPTER 19**  
**FLOODPLAIN OVERLAY ZONE**

Section	Title	Page
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19.15	Generalized Floodplain Areas	
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**19.00 PURPOSE.** The purpose of the Floodplain Overlay Zone is to:

- (a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- (b) Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.
- (c) Minimize flood damage to new construction by elevating or flood proofing all structures.
- (d) Control the alteration of natural floodplains, stream channels and natural protective barriers which hold, accommodate or channel flood waters.
- (e) Control filling, grading, dredging and other development which may be subject to or increase flood damage.
- (f) Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.
- (g) Comply with the requirements of the Federal Insurance Administration to qualify Marion County for participation in the National Flood Insurance Program.
- (h) Minimize flood insurance premiums paid by the citizens of Marion County by reducing potential hazards due to flood damage.
- (i) Implement the floodplain policies in the Marion County Comprehensive Plan.

**19.01 DEFINITIONS.** For purposes of this overlay zone the following terms shall mean:

- (a) **Accessory - a building, structure, vehicle, or use which is incidental and subordinate to and dependent upon the primary use on the lot.**

- (b) **Area of Shallow Flooding** – A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- (c) **Base Flood Level** - The flood level having a one percent chance of being equaled or exceeded in any given year (100 year floodplain).
- (d) **Basement** – **Any area of a building having its floor subgrade (below ground level on all sides) and not meeting the requirements for crawl space construction in FEMA Technical Bulletin 11-01.**
- (e) **Critical Facility** – **Any buildings or locations vital to the emergency response effort (e.g., emergency operations centers, 911 centers, police and fire stations, municipal water distribution and storage systems, hospitals, road departments and select roads and bridges, radio and TV stations and towers), and buildings or locations that, if damaged, would create secondary disasters (e.g., hazardous materials facilities, water and wastewater distribution and treatment facilities, schools, nursing homes, natural gas and petroleum pipelines, and prison or jail facilities).**
- (f) **Conveyance** - The carrying capacity of all or a part of the floodplain. It reflects the quantity and velocity of floodwaters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.
- (g) **Existing Manufactured Home Park or Subdivision** - Is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed was completed before the effective date (August 15, 1979) of the community's floodplain management regulations. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.
- (h) **Encroachment** - Any obstruction in the floodplain which affects flood flows.
- (j) **Flood or Flooding** - A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.
- (j) **Flood Boundary Floodway Map (FBFM)** - The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Floodplain, Floodway (and Floodway Fringe) and cross sections (referenced in the text portion of the FIS).
- (k) **Floodplain Development** - Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the floodplain.
- (l) **Floodway Fringe** - The area of the floodplain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
- (m) **Floodplain** - Lands within the County that are subject to a one percent or greater chance of flooding in any given year and other areas as identified on the official zoning maps of Marion County.
- (n) **Flood Insurance Rate Map (FIRM)** - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (floodplain) and the risk premium zones applicable to the community and is on file with the Marion County Planning Division.

- (o) **Flood Insurance Study (FIS)** - The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway map and the water surface elevation of the base flood and is on file with Marion County Planning Division.
- (p) **Floodproofing** - A combination of structural or non-structural provisions, changes or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
- (q) **Floodway** - The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodways are identified on the Marion County Flood Boundary Floodway Insurance Rate Maps (FIRMS) for Marion County. Once established, nothing can be placed in the floodway that would cause ANY rise in the Base Flood Elevation.
- (r) **Highway Ready Recreation Vehicle** – A fully licensed recreation vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (s) **Lowest floor** - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- (t) **Manufactured Home** - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes mobile homes as defined in Section 19.01(u). For insurance and floodplain management purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles as defined in Section 19.01(y).
- (u) **Manufactured Home Park or Subdivision** - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots or spaces for rent or sale.
- (v) **Mean Sea Level** - For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (w) **Mobile Home** - A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by Section 19.01 (y).
- (x) **New Construction** - Any structure(s) for which the start of construction commenced on or after the effective date of the Floodplain Overlay Zone (August 15, 1979).
- (y) **Obstruction** - Any physical object which hinders the passage of water.
- (z) **Permanent Foundation** – A natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

- (aa) **Recreational Vehicle** - A "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801.350, and 801.565 that is intended for temporary human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in Section 19.01(u).
- (bb) **Reinforced Pier** - At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers. When piers exceed 36 inches under "I" beams or 48 inches under floor systems they are required to be designed by an engineer licensed in Oregon.
- (cc) **Special Flood Hazard Area (SFHA)** - Areas subject to inundation from the waters of a 100-year flood (identified on the FIRM by the letter "A", e.g. A, AE, A1-A30, AO, AH, etc.).
- (dd) **Start of Construction** - ~~(For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348))~~, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- (ee) **Substantial Damage** - Flood-related damage when the cost of restoring the structure would equal or exceed 20 percent of the market value of the structure before the damage occurred.
- (ff) **Substantial Improvement** -Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 20 percent of the assessed value of the structure:
  - (1) Before the improvement or repair is started; or
  - (2) If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
    - (a) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions;
    - (b) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.
- (gg) **Watercourse** - A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplains.

- (h) **Water Dependent** – A use or activity that can be carried out only on, in or adjacent to water areas because the use requires access to the water body for water related transportation, recreation, energy production or source of water. These uses include structures that to serve their purpose must be in or adjacent to water areas, such as bridges, culverts, and erosion and flood control structures.
- (ji) **Wet floodproofing – A method of construction using building materials capable of withstanding direct and prolonged (72 hours) contact with floodwaters without sustaining significant damage (any damage requiring more than low-cost cosmetic repair, such as painting), consistent with FEMA Technical Bulletin 7-93.**
- (jj) **Zoning Administrator** - Shall be the Planning Director or his designee.

**19.10 GENERAL PROVISIONS.** The following regulations apply to all unincorporated lands in identified floodplains as shown graphically on the zoning maps. The floodplain comprises those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study for Marion County and Unincorporated Areas" dated January 19, 2000, with accompanying Floodway and Flood Insurance Rate Maps, and amendments taking effect on August 15, 1979, August 19, 1987, September 30, 1993, December 19, 1995, June 19, 1997, and January 2, 2003. The floodplain also comprises areas identified and mapped by Marion County that were not studied by the **Flood Insurance Study, FIA**. The report and maps are incorporated in the overlay zone by this reference and are on file with the Marion County Planning Division. When base flood elevation data have not been provided, the Zoning Administrator shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

- (a) Duties of the Zoning Administrator shall include, but not be limited to:
  - (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
  - (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
  - (3) Review building permits where elevation data is not available either through the FIS or from another authoritative source, to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
  - (4) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 19.14(j) are met.
  - (5) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structures contain a basement.
  - (6) For all new or substantially improved floodproofed structures:
    - (A) Verify and record the actual elevation (in relation to mean sea level), and
    - (B) Maintain the floodproofing certifications required in Section 19.14(c).

- (7) Maintain for public inspection all records pertaining to the provisions of this ordinance, **including elevation certificates.**

**19.11 USES.** Within a FP (Floodplain) Overlay zone no uses, structures, recreational vehicles and premises shall be used or established except as provided in the applicable underlying zone and the provisions of this overlay zone. Except as provided herein all uses and floodplain development shall be subject to issuance of a conditional use permit (Floodplain Development Permit) as provided in Section 19.13.

- (a) The following uses are exempt from the regulations of this overlay zone:

(1) Signs, markers, aids, etc., placed by a public agency to serve the public.

(2) Streets, driveways, parking lots and other open space use areas where no alteration of topography will occur.

(3) Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 19.01(dd).

(4) Customary dredging associated with channel maintenance consistent with applicable State or Federal law. This exemption does not apply to the dredged materials placed within a floodplain.

(5) Placement of utility facilities necessary to serve established and permitted uses within floodplain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of ~~floodplain development~~ **utility facilities development in the floodplain.**

~~(a) — The following are not required to obtain a conditional use permit provided:~~

~~(b) That~~ Prior to obtaining a building permit for any residential, commercial or industrial structure within an area identified by FIA **FEMA** or Marion County as being within a 500 year floodplain the applicant shall comply with the requirement in 19.13(c).

~~(c)~~ New dwellings and manufactured homes, and replacement dwellings that are not being replaced in the same location as the original dwelling, are prohibited in the floodplain if there is an area on the subject property that is located outside of the floodplain where the dwelling can be placed. An exception to this prohibition may be granted if a floodplain development permit, and variance **meeting the criteria in** ~~consistent with~~ Section 19.16, .17 are obtained.

~~(d)~~ Prior to any mining, dredging, filling, grading, paving or excavation within the 500 year floodplain area as shown on the Marion County zoning maps, a floodplain development permit shall be obtained.

~~(e)~~ **Siting of new critical facilities are prohibited within the floodway and 100 and 500 year floodplains. An exception to this prohibition may be granted for development in the 500 year floodplain if a floodplain development permit, and variance meeting the criteria in Section 19.17, are obtained. This prohibition does not apply to water dependent uses.**

~~19.12 RESERVED~~

**19.13 CONDITIONAL USE PROCEDURES AND REQUIREMENTS.**

- (a) Except as provided in Section 19.11 a conditional use permit (Floodplain Development Permit) shall be obtained before construction or development begins within the Floodplain Overlay Zone. The conditional use permit shall include conditions ensuring that the Flood Protection standards in Section 19.14 are met.
- (b) When base flood elevation data and floodway data have not been provided in accordance with Section 19.10, the applicant, with the assistance of the Zoning Administrator, shall obtain and reasonably utilize any base flood elevation data or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data are insufficient, the Zoning Administrator may require that the applicant provide data derived by standard engineering methods.
- (c) Prior to obtaining a building permit the owner shall be required to sign and record in the deed records for the county a declaratory statement binding the landowner, and the landowner's successors in interest acknowledging that the property and the approved development are located in a floodplain.
- (d) Prior to obtaining a building permit, commencing development or placing fill in the floodplain the applicant shall submit a certification from a registered civil engineer demonstrating that a development or fill will not result in an increase in floodplain area on other properties and will not result in an increase in erosive velocity of the stream that may cause channel scouring or reduce slope stability downstream of the development or fill.
- ~~(e) Prior to any mining, dredging, filling, grading, paving or excavation within the 500 year floodplain area, as shown on the Marion County zoning maps, a floodplain development permit shall be obtained.~~
- (e) The applicant shall provide an elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevations ~~(in relation to mean sea level)~~ of the lowest floor ~~(including basement)~~ of all new or substantially improved manufactured homes, dwellings and structures meets the requirements of Section 19.14(a), (b) and (c) where applicable, as follows:
  - (1) Prior to construction (based on construction drawings), and
  - (2) Once the floor elevation can be determined (based on the building under construction), and
  - (3) Prior to occupancy (based on finished construction).
- (f) A highway ready recreation vehicle may be located on a lot or parcel without a dwelling in a floodplain or floodway only during the non-flood season (June 1 through September 30), subject to the requirements in Section 26.41.
- (g) In addition to other information required in a conditional use application, the application shall include:
  - (1) Land elevation in mean sea level data at development site and topographic characteristics of the site.
  - (2) Base flood level expressed in mean sea level data on the site, **if available**.
  - (3) Plot plan showing property location, floodplain and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
  - (4) Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone.



**19.14 FLOOD PROTECTION STANDARDS.** In all areas of identified floodplain, the following requirements apply:

(a) **Dwellings, and Manufactured Homes and Related Accessory Structures**

New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this ordinance shall:

- (1) Dwellings shall have the top of the lowest floor, including basement, elevated on a permanent foundation to two feet above base flood elevation and the bottom of the lowest floor constructed a minimum of one foot above the base flood elevation. Where the base flood elevation is not available, the top of the lowest floor, including basement shall be elevated on a permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site and the bottom of the lowest floor elevated to one foot above the highest adjacent natural grade (within five feet) of the building site; and
- (2) Manufactured homes shall have the finished floor, including basement, elevated on a permanent foundation to two feet above base flood elevation. Where the base flood elevation is not available, the finished floor, including basement shall be elevated on a permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site; and
- (3) Manufactured homes shall be anchored in accordance with subsection (d); and
- (4) No new dwellings or manufactured home shall be placed in a floodway. An exception to this prohibition may be granted if a floodplain development permit, and variance consistent with Section 19.16, are obtained.
- (5) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must ~~meet or exceed~~ **comply with** the following ~~minimum criteria~~ **standards**:
  - (A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (B) The bottom of all openings shall be no higher than one foot above grade.
  - (C) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) **Construction where the crawl space is below-grade on all sides may be used. Designs for meeting these requirements must either be certified by a registered professional engineer or architect, or must meet the following standards, consistent with FEMA Technical Bulletin 11-01 for crawl space construction:**
  - (A) **A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;**
  - (B) **The bottom of all openings shall be no higher than one foot above grade;**

- (C) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
  - (D) Interior grade of the crawl space shall not exceed two (2) feet below the lowest adjacent exterior grade;
  - (E) The height of the crawl space when measured from the interior grade of the crawl space (at any point on grade) to the bottom of the lowest horizontal structural member of the lowest floor shall not exceed four (4) feet;
  - (F) An adequate drainage system that removes floodwaters from the interior area of the crawl space shall be provided; and,
  - (G) Below-grade crawl space construction in accordance with the requirements listed above will not be considered basements for flood insurance purposes. However, below grade-crawl space construction in the Special Flood Hazard Area is not the recommended construction method because of the increased likelihood of problems with foundation damage, water accumulation, moisture damage, and drainage. Applicants shall be advised that buildings constructed with below-grade crawl spaces will have higher flood insurance premiums than buildings that have the preferred crawl space construction (the interior grade of the crawl space is at or above the adjacent exterior grade).
- (7) A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, may be constructed to wet floodproofing standards provided that:
- (A) The garage shall meet the standards for openings in Section 19.14 (a) (5); and,
  - (B) The garage shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade.
- (8) A detached residential accessory structure may be constructed to wet floodproofing standards provided that:
- (A) The accessory structure shall be located on a property with a dwelling;
  - (B) The accessory structure shall be limited to vehicle parking and limited storage (no workshops, offices, recreation rooms, etc);
  - (C) The accessory structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;
  - (D) The accessory structure shall not be used for human habitation;
  - (E) The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (F) The accessory structure shall meet the standards for openings in Section 19.14 (a) (5); and,

**(G) The accessory structure shall meet the criteria for a variance in Section 19.17.**

**(b) Manufactured homes in existing manufactured home parks**

The standards in Section 19.14(a) shall apply to location of a manufactured home in a vacant space in a manufactured home park existing prior to adoption of this ordinance.

**(c) Non-residential development**

(1) New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to two feet above the level of the base flood elevation, **and where** ~~Where~~ the base flood elevation is not available, the lowest floor, including basement shall be elevated to two feet above the highest adjacent natural grade (within five feet) of the building site; or together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed **to an elevation of two feet above base flood elevation or, where base flood elevation has not been established two feet above the highest adjacent grade, so that the structure is** ~~so that below the base flood level the structure is~~ watertight with walls substantially impermeable to the passage of water.

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(C) Be certified by a registered professional engineer or architect that the standards in this subsection ~~and subsection (E)~~ are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed.

(D) Non-residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 19.14 (a) (5).

(E) Applicants floodproofing non-residential buildings shall be notified by the Zoning Administrator that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

(2) New construction of any commercial, industrial or other non-residential structures are prohibited in the floodway. An exception to this prohibition may be granted if a floodplain development permit, and variance consistent with Section 19.16, are obtained. This prohibition does not apply to water dependent uses.

**(3) An agricultural structure may be constructed to wet floodproofing standards provided that:**

(A) **The structure shall be used solely for agricultural purposes, for which the use is exclusively in conjunction with the production, harvesting, storage, drying, or raising of agricultural commodities, the raising of livestock, and the storage of farm machinery and equipment;**

(B) **The structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;**

**(C) The structure shall not be used for human habitation;**

**(D) The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;**

**(E) The structure shall meet the standards for openings in Section 19.14 (a) (5); and,**

**(F) The structure shall meet the criteria for a variance in Section 19.17.**

(d) Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchoring methods shall be consistent with the standards contained in Section 308 (Flood Resistance) contained in the Oregon Manufactured Dwelling Standards Manual 1997 per ORS 446.062.

(e) Construction materials and methods

- (1) All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.

(f) Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.
- (2) New and replacement sanitary sewage systems including on-site waste disposal systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be elevated to one above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-condition equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site.

(g) Developments, Generally - Residential developments involving more than one single family dwelling, including subdivisions, manufactured home parks, multiple family dwellings and planned developments including development regulated under (a) and (c) shall meet the following requirements:

- (1) Be designed to minimize flood damage.

- (2) Have public utilities and facilities such as sewer, gas electrical and water systems located and constructed to minimize flood damage.
  - (3) Have adequate drainage provided to reduce exposure to flood damage.
  - (4) Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available analysis by standard engineering methods will be required.
- (h) Storage of materials and equipment - Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.
- (i) Alteration of watercourses - When considering a conditional use permit to allow alteration or modification of a watercourse the following shall apply:
- (1) Adjacent communities, the Oregon Division of State Lands and the Department of Land Conservation and Development, **and other affected agencies**, shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.
  - (2) Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (j) Floodways - Located within areas of floodplain established in Section 19.10 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential the following provisions shall apply in addition to the requirement in (i):
- (1) Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a certified technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review.
  - (2) If subsection (1) above is satisfied all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 19.14.
  - (3) The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure.
- (k) Standards for Shallow Flooding Areas (AO Zones)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- (1) New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade (within five feet) of the building site, to two feet above the depth number specified on the FIRM or three feet if no depth number is specified.

- (2) New construction and substantial improvements of non-residential structures within AO zones shall either:
  - (A) Have the lowest floor (including basement) elevated above the highest adjacent grade (within five feet) of the building site, to two feet above the depth number specified on the FIRM or three feet if no depth number is specified); or
  - (B) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Subsection 19.14(e)
- (3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

**19.15 GENERALIZED FLOODPLAIN AREAS.** Where elevation data is generalized, such as the unnumbered A zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed floodplain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that demonstrate the site is not in a floodplain. In such cases, a letter of map amendment may be required by the Zoning Administrator.

**19.16 VARIANCES.**

- (a) A variance may be issued as part of the conditional use process for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in subsection 19.17.
- (b) Marion County shall notify the applicant in writing over the signature of the Zoning Administrator that: 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and 2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection (c).
- (c) Marion County shall: 1) maintain a record of all variance actions, including justification for their issuance; and 2) report such variances issued in its biennial report submitted to the NFIP Administrator.

**19.17 VARIANCE CRITERIA.** The following criteria shall be used to review variance applications.

- (a) Variances shall only be issued upon a showing that:
  - (1) There is a good and sufficient cause;
  - (2) That failure to grant the variance would result in exceptional hardship to the applicant;

- (3) That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;
- (4) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (5) The variance will be consistent with the intent and purpose of the provision being varied;
- (6) There has not been a previous land use action approved on the basis that variances would not be allowed; and
- (7) The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

**19.18 WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This zone does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This zone will not create liability on the part of Marion County, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any decision lawfully made thereunder.

**CHAPTER 20**  
**GREENWAY MANAGEMENT OVERLAY ZONE**

Section	Title	Page
20.01	Purpose	
20.02	Application	
20.03	Review of Uses	
20.04	Required Application Information	
20.05	Review Standards and Criteria	
20.06	Notice of Decision	
20.07	Definitions	

**20.04 REQUIRED APPLICATION INFORMATION.** Information contained in the application and supplied by the applicant shall include but not be limited to:

- (a) Plot plan showing the following:
  - (1) ~~The area of the proposed use or activity.~~
  - (1) The proximity of the activity to the Willamette River at low and high water level and the location of the top of the terrace bank.
  - (2) The location of any existing vegetative fringe along the river bank or other significant vegetation.
- (b) Statements, drawings, or photos of the proposed external appearance of proposed activity as viewed from the river.
- (c) Statements demonstrating compliance with the provisions of this zone.
- (d) Any additional information determined by the Zoning Administrator to be necessary to demonstrate compliance with this zone.

**20.06 NOTICE OF DECISION.** In addition to the request for comments provided in Section 36.11 and notice required in Chapter 37, Notice of Decision approving conditional uses or adjustments in the Greenway Overlay Zone shall be sent to the Oregon Parks and Recreation Department ~~Division of Parks and Recreation~~ in the same manner as required in Chapter 44 for a person requesting notice of a decision in writing.



**CHAPTER 21  
AIRPORT OVERLAY ZONE**

Section	Title	Page
21.01	Purpose	
21.02	Definitions	
21.03	Airport Districts	
21.04	Review Procedure and Conditions of Approval	
21.05	Non-Conforming Uses	
21.06	Adjustments	

**21.04 REVIEW PROCEDURES AND CONDITIONS OF APPROVAL.**

- (a) An applicant seeking approval for any use or structure regulated by the Airport Overlay Zone shall provide the following information:
  - (1) A copy of the latest transfer document identifying the property boundaries.
  - (2) Location and height of existing and proposed buildings, structures, utility lines and roads on the subject property.
- (b) Building permits may be issued only after the applicant has notified the Federal Aviation Administration in accordance with Federal Aviation Administration Regulation 77.13 on an FAA Form 7460-1, and the Zoning Administrator determines that the building or structure complies with Section 21.03.
- (c) A conditional use permit shall be required for any use, or buildings and structures associated therewith, specifically identified in Section 21.03, provided that a conditional use permit is not required for specifically identified uses and associated buildings and structures subject only to defined standards.
- (d) Where a zone change, conditional use permit or adjustment is required, the ~~State Aeronautics Division,~~ **Oregon Department of Aviation**, and in the case of the Salem airport the Airport Superintendent, shall be notified of the proposal and be given an opportunity to comment, and be notified of any public hearing and the decision.
- (e) As a condition of approval for a zone change, conditional use or adjustment, an applicant proposing a structure or tree within the Districts established by this Airport Overlay Zone may be required to install, operate and maintain, at the owner's expense, such markings and lights as may be required by the ~~Oregon State Aeronautics Division~~ **Oregon Department of Aviation** to indicate to the operators of an aircraft of the presence of the structure or tree.

**21.05 NON-CONFORMING USES.**

- (a) The regulations prescribed by the Airport Overlay Zone shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of the non-conforming use except as provided in (c).
- (b) Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, otherwise permitted, the construction or alteration of which was begun prior to the effective date of this ordinance.

- (c) The owner of an existing non-conforming structure or tree may be responsible to provide or permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the ~~Oregon State Aeronautics Division~~ **Oregon Department of Aviation** to indicate to the operators of aircraft the presence of such airport obstructions. Such markers and lights shall be installed, operated and maintained at the expense of the party determined to be responsible by the ~~Oregon State Aeronautics Division~~ **Oregon Department of Aviation** under the provision of ~~ORS 1838-70-240~~. **OAR 738-70-0100**.

**21.06 ADJUSTMENTS**. The provisions of this Overlay Zone may be varied subject to the procedures and criteria for considering adjustments set forth in Chapters 37 and 41. An application for an adjustment shall be accompanied by a determination from the Federal Aviation Administration and ~~Oregon Aeronautics Division~~ **Oregon Department of Aviation** of the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Adjustments may be allowed where it is found that the proposal will not create a hazard to air navigation and will be in accordance with the purpose and intent of this Overlay Zone.

**CHAPTER 22**  
**LIMITED USE OVERLAY ZONE**

Section	Title	Page
22.01	Purpose	
22.02	Overlay Zone Requirements	
22.03	Procedures and Criteria	
22.04	Official Zoning Map	
22.05	Site Plan Requirement	

**22.01 PURPOSE.** The purpose of the Limited Use Overlay Zone is to reduce the list of permitted or conditional uses in a zone to those that are suitable for a particular location. Zones permit a number of uses without notification or opportunity for a hearing, because the uses are considered generally acceptable, although type and intensity of activity may vary. Zones also include conditional uses that may be permitted if certain criteria are met. However, on a particular property certain of these uses may conflict with adjacent land uses or may not be considered suitable for a particular site. Rather than deny a zone change because the proposed zone would allow an objectionable permitted or conditional use, the Limited Use Overlay can be used to identify the appropriate uses and either require a conditional use permit for other uses normally permitted in the zone or delete objectionable permitted or conditional uses from the zone **or to limit, modify or restrict a specific permitted or conditional use.** It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.

**22.02 OVERLAY ZONE REQUIREMENTS.** When the Limited Use Overlay zone is applied, the uses identified in the underlying zone shall be limited to those permitted or conditional uses specifically referenced in the ordinance adopting the Limited Use Overlay zone. Until the Overlay zone has been removed or amended the only uses permitted on the property shall be those specifically referenced in the adopting ordinance. Uses that would otherwise be permitted, or permitted subject to a conditional use permit, may only be allowed if the list of permitted or conditional uses in the Limited Use Overlay Zone is amended or the Limited Use Overlay Zone is removed from the property.

**22.03 PROCEDURES AND CRITERIA.** The Limited Use Overlay zone is applied at the time the underlying zone is being changed **or by legislative action by the Marion County Board of Commissioners.** It shall not be necessary to mention in the hearing notice of a rezoning application that this overlay zone may be applied. The ordinance adopting the overlay zone shall include findings showing that:

- (a) No zone has a list of permitted and conditional uses where all uses would be appropriate;
- (b) The proposed zone is the best suited to accommodate the desired uses;
- (c) It is necessary to limit the permitted or conditional uses in the proposed zone; and
- (d) The maximum number of acceptable uses in the zone has been retained as permitted or conditional uses. The ordinance adopting the overlay zone shall by section reference, or by name, identify those permitted uses in the zone that become conditional uses and those permitted or conditional uses that are deleted from the underlying zone. A use description may be segmented to delete or require a conditional use for any aspect of a use that may not be compatible.

**CHAPTER 24**  
**GEOLOGICALLY HAZARDOUS AREAS OVERLAY ZONE**

<u>Section</u>	<u>Title</u>	<u>Page</u>
24.01	Purpose	
24.02	Definitions	
24.03	Applicability	
24.04	Regulated Activities and Uses; Exemptions	
24.05	Approval Requirements	
24.06	Review Procedure and Peer Review	
24.07	Assessment or Report Appeals Process	
24.08	Declaratory Statement	
24.09	Compliance	
24.10	Enforcement	
24.11	Severability	

**24.02** **DEFINITIONS.** The following definitions apply to this chapter only, and have no applicability to the same terms used in other chapters of this ordinance, unless specifically stated.

(g) **Excessive slope areas** are areas with **mapped** slopes greater than 20 percent.

**CHAPTER 25**  
**PERMITTED USES GENERALLY**

Section	Title	Page
25.10	Uses Permitted in all Zones	
25.20	Permitted Secondary and Accessory Structures and Uses	
25.30	Permitted Temporary Uses	

\*-Word Terms defined in Chapter 49

**25.10 USES PERMITTED IN ALL ZONES.** The following uses, facilities and activities whether primary, accessory, secondary or temporary, are permitted in all zones subject to compliance with the requirements in Chapters 24 and Chapters 26 through 34, except when specifically prohibited or when a conditional use is required in the applicable primary or overlay zones:

- (a) Public rights-of-way and easements existing at the time of adoption of this ordinance, including public streets, roads, utilities and road signs installed by a public agency located therein. ~~; except as provided in (d) for UTF zones.~~
- (b) ~~Except as provided in (d),~~ Expansion and realignment of existing right of way and easements, including improvement and construction of streets, roads and utilities in conformance with the applicable comprehensive plan and the standards of the Department of Public Works. Street right-of-way shall not be expanded to a greater width than twice the special setback in Section 27.21 unless the expansion is necessary to include cut and fill slopes. Realignment shall not create any new parcels.
- (c) ~~Except as provided in (d),~~ Establishment of new public right-of-way and easements, including construction of streets, roads and utilities in conformance with the applicable comprehensive plan, the standards of the Department of Public Works, and the provisions of Chapter 33. County Subdivision and Partitioning Ordinance. Street right-of-way shall not be greater in width than twice the special setback in Section 27.21 unless the greater width is necessary to include cut and fill slopes.
- (d) ~~In the UTF zone, in addition to existing uses and facilities, the following uses and facilities within street rights of way are permitted without approval:~~
  - (1) ~~Climbing and passing lanes within the right of way existing as of July 1, 1987.~~
  - (2) ~~Reconstruction or modification of streets. Additional travel lanes, removal or displacement of buildings, or creation of new lots are not included.~~
  - (3) ~~Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.~~
  - (4) ~~Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.~~
- (e) Railroad tracks and related structures and facilities located within rights-of-way controlled by railroad companies.

- (f) Use of non-geothermal groundwater, natural or man-made waterways and impoundments, and related structures and facilities for supply associated with permitted uses.
- (g) Creation, restoration, or enhancement of wetlands as defined in ORS 197.015 (17).
- (h) Condominium buildings\*.

**25.20 PERMITTED SECONDARY AND ACCESSORY STRUCTURES AND USES.** The following secondary and accessory uses and structures shall be permitted on a lot with a primary use and are subject to the limitations and requirements in Chapters 24, 25, 26, 27, and 28, and the requirements in any applicable overlay zone:

- (a) The following accessory structures and ~~sues~~ **uses** are permitted on a lot in any zone in conjunction with a permitted dwelling or mobile home:
  - (1) Decks and patios (open, covered, or enclosed);
  - (2) Storage building for: firewood, equipment uses in conjunction with dwelling and yard maintenance; personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
  - (3) Vegetable gardens, orchards and crop cultivation for personal use, including greenhouses. No sale of produce is permitted.
  - (4) Sauna;
  - (5) Hobby shop;
  - (6) Shelter for pets;
  - (7) Fallout shelters;
  - (8) Swimming pools and hot tubs;
  - (9) Guest **facility** ~~house~~\*:
    - (A) Only one guest facility is allowed per contiguous property ownership; and**
    - (B) Total combined maximum floor area shall not exceed 600 square feet, including all levels and basement floor areas; and**
    - (C) No stove top, range, or conventional oven is allowed; and**
    - (D) All water, sewer, electricity and natural gas services for the guest facility shall be extended from the primary dwelling services; no separate meters for the guest facility shall be allowed; and**
    - (E) The guest facility shall be located within 100 feet of the primary use dwelling on the same property measured from the closest portion of each structure; and**
    - (F) Where allowed the guest facility shall use the same septic system as the primary use dwelling, except when a separate system is required by the Building Inspection Division due to site constraints, or failure of the existing system, or where the size or condition of the existing system precludes its use, additional drain lines may be added to an existing system, when appropriate; and**
    - (G) The guest facility shall not be occupied as a dwelling unit; and**
    - (H) The guest facility shall not have an address.**
  - (10) Rooming\* or boarding\* of up to two persons in a dwelling;
  - (11) Pets\*, provided a conditional use permit is required if there are more than 10 mammals over four months old. No birds or furbearing animals, other than pets, and no livestock, poultry, or beekeeping are permitted in residential zones.
  - (12) One recreational vehicle space\* (see Section 26.41);
  - (13) Additional kitchens in a dwelling provided all kitchens in the dwelling are used by only one family **and provided the kitchens are not located in separate dwelling units;**

- (134) Offering to sell five or less vehicles\* owned by the occupants of the dwelling in any calendar year;
  - (145) Garages\* and carports\* for covered vehicle parking;
  - (156) Child foster home\* for 5 or fewer children;
  - (167) Sleeping quarters for domestic employees of the resident of the dwelling or mobile home;
  - (18) ~~Bed and Breakfast establishments in UT and UTF zones provided they do not include more than 4 lodging rooms and employ no more than one person in the conduct of the home occupation on the subject property ("person" includes volunteer, non-resident employee, partner or any other person).~~
- (b) Fences are a permitted accessory or secondary use in all zones subject to the requirements in Chapter 28.
  - (c) Transit stop shelters and school bus stop shelters are a permitted secondary use in all zones. Shelters shall not be located within a required vision clearance area and shall not be located more than 10 feet from a street right-of-way.
  - (d) Parking of vehicles in a structure or outdoors is a permitted accessory use in conjunction with a dwelling in any zone provided:
    - (1) The vehicles are owned by the occupant of the lot or domestic employees of the occupant; and
    - (2) Vehicles parked outdoors in a residential zone may be parked in a space within the front yard meeting the requirements for required parking in Section 30.11; or, they may be parked elsewhere on the lot where accessory buildings are permitted provided the parking area is screened by a six foot high sight-obscuring fence, wall or hedge from other lots in a residential zone. On a lot in the RS zone not more than vehicles shall be parked within require yards adjacent to streets; and
    - (3) Vehicles parked on a lot in a residential zone shall be for the personal use of the occupants of the dwelling **or the personal use of an employee of an approved conditional use home occupation**. One vehicle used in conjunction with a home occupation or other employment may be parked on the lot provided that in the RS, RL, and RM zones the vehicle shall be parked in an enclosed structure if it is rated at more than one ton capacity.
  - (e) One manager's office of 200 square feet or less for rental of dwellings is a permitted accessory use in the RL and RM zones.
  - (f) Mobile classrooms and dormitories\* for students are a permitted accessory use in conjunction with **public or private** elementary and secondary schools (SIC 8211).
  - (g) Parsonage in conjunction with a religious organization\*.
  - (h) Subject to the requirements in (2) below uses permitted outright in certain zones are permitted as an accessory use in a more restrictive zone as follows:
    - (1) Uses permitted in Section 5.01 of the CO zone are allowed as an accessory use in the RM zone when the lot is contiguous to a commercial zone. **Uses permitted in Section 6.01 of the CR Zone are an accessory use in the CO Zone.** Uses permitted in Section 7.01 of the CG zone are allowed as an accessory use in the CR zone. Uses permitted in Section 11.01 of the IG zone are permitted as accessory uses in the IP zone.
    - (2) Requirements:

- (a) The area occupied by accessory uses permitted in subsection (1) shall not exceed 40% of the area occupied by uses permitted outright or conditionally in the primary or overlay zones.
  - (b) Any development requirements in Chapters 24 and 26 through 34 shall be met for the accessory use as if it was a primary use.
  - (c) The accessory use shall be located on the same lot as the primary use and any structures associated with the accessory use shall be owned or leased by the owner of the primary business.
  - (d) The allowance of accessory uses in a more restrictive zone shall not be considered a basis for a zone change to a less restrictive zone.
- (i) Parking of vehicles in a structure or outdoors is a permitted accessory or secondary use in the CR, CG, HC, IC, IP, P, UFF, and UT zones provided:
- (1) The vehicles are owned by the occupant of the lot or employees of the occupant.
  - (2) If vehicles are stored outdoors, the parking area is enclosed by a six foot high sight-obscuring fence, wall, hedge or berm; surfaced as required in Section 30.20; and, lighting complies with Section 30.1; and
  - (3) If vehicles are parked outdoors, the vehicles shall be operational, used in conjunction with the primary use of the lot, and if more than one vehicle is parked the area is screened by a six foot high sight-obscuring fence, wall or hedge from lots in residential zones and from streets.
- (j) Drop stations\* are permitted in CR, CG and HC zones.
- (k) One manager's office for rental of space in an industrial zone provided the office is within a development with at least 10 separately rentable buildings.
- (l) Retail sales or offices in a building in conjunction with a use in an industrial zone provided:
- (1) The floor area of the retail sales or offices shall not be more than 30% of the floor area of the industrial use;
  - (2) The development requirements in Chapters 24 and 26 through 34 are met for the accessory use as if it was a primary use; and
  - (3) The accessory use shall be located on the same lot as the primary use and the building shall be owned or leased by the industrial business owner.
- (m) Accessory and secondary uses not otherwise permitted may be allowed as a conditional use provided the use is consistent with the definition of accessory or secondary and is compatible with the purpose of the zone and land uses on adjacent lots.

**25.30 PERMITTED TEMPORARY USES.** The following temporary uses shall be permitted subject to the following limitations and requirements and the requirements in applicable overlay zones:

- (a) Outdoor amusements, Christmas trees or fireworks sales, specialty sales and services from a vehicle or temporary structure, outdoor display and sale of flowers or other specialty items, are permitted as



secondary uses in CR, CG and HC zones provided each activity is located on the same lot for no more than 60 days in any calendar year, does not reduce required parking for primary uses on the same lot to less than required in Section 30.15, or create traffic congestion at driveway entrances or in parking aisles.

- (b) Mobile offices and temporary structures to house personnel and store equipment during construction provided the office is not used as a dwelling.
- (c) Temporary roadside stands in conjunction with a farm use provided: 1) sales are limited to produce grown in Marion County, 2) at least 51% of the produce is grown on the premises, 3) one off-street parking space is provided for each 100 square feet of floor area, and 4) the roadside stand is operated for no more than six months in any calendar year and only between official sunrise and sunset.
- (d) Outdoor activities in the P and UT ~~and UTF~~ zones where entertainment, food or recreation or overnight camping will be made available to not more than 250 people for less than 24 hours. If more than two events are held on the same property during a calendar year a conditional use shall be required as provided in (g).
- (e) Storage of mobile home\* on a lot for not more than one year where the mobile is or has been a permitted use and the mobile home is offered for sale; provided, the mobile home is not used for sleeping, eating or restroom purposes.
- (f) Garage sales and yard sales in any residential zone, and auctions in Commercial and Industrial zones, provided there are not more than three sales in a calendar year with each sale not to exceed three consecutive days. All display of merchandise to remain on private property.
- (g) Temporary uses that do not meet the limitations identified in this section and other temporary uses not addressed herein may be approved as a conditional use as provided in Chapter 40 subject to meeting the following criteria:
  - (1) The temporary use is compatible with the purpose of the zone and adjacent land uses.
  - (2) The temporary use will have adequate public services to maintain the public health and safety.
  - (3) The operator of the temporary use has signed an agreement with the Department of Community Development regarding termination of the use consistent with the time limitations established in the conditions of approval.
  - (4) Temporary outdoor activities where entertainment, food, recreation or overnight camping are available to the general public shall only be allowed in the P and UT ~~and UTF~~ zones.

**CHAPTER 26  
USE STANDARDS**

Section	Title	Page
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26.22	Child Day Care Services <b>Facility</b>	
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26.901-26.905	Mobile Home Parks	

\*-Word **Terms** Defined in Chapter 49

**26.03 MANUFACTURED HOME ON A LOT.** A single family manufactured home on a lot shall meet the following use and development standards:

- (a) Be manufactured after June 15, 1976 and exhibit the U.S. Housing and Urban Development (HUD) certification label pursuant to OAR 918-500-450 (2); and
- (b) Be multi-sectional (double-wide or larger) and enclose a space of not less than 1,000 square feet; and

- (c) Have a pitched roof with a minimum nominal height of three feet for each 12 feet in width; and
- (d) Be placed on an excavated and backfilled\* foundation enclosed at the perimeter; and
- (e) Have a garage or carport for at least one vehicle located on the same lot.
- ~~(f) Vertical rolled goods siding is not allowed.~~
- (f) Have an exterior thermal envelope meeting performance standards that reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State building code as defined in ORS 455.010. Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope requirement. Additional evidence shall not be required.

**26.06 DUPLEX ON A CORNER LOT.** A duplex on a corner lot shall meet the following additional use and development standards:

- (a) The corner lot shall contain at least 7,000 square feet.
- (b) Each dwelling unit shall derive its pedestrian and vehicular access from a different street unless one of the street is a collector or arterial street **or as approved by Marion County Public Works Department.**
- (c) The lot must have been created after the adoption of this ordinance.

**26.08 ZERO SIDE YARD DWELLING UNITS.** Zero side yard dwelling units shall meet the following use and development standards:

- (a) **Permitted development.**
  - (1) Unattached dwellings, with one dwelling unit per lot, may be built contiguous with one but not both of the side lot lines.
  - (2) In RS zones, attached dwellings, with one dwelling unit per lot, may be built contiguous with both side lot lines provided not more than three dwelling units are attached.
  - (3) In other zones, attached dwellings, with one dwelling unit per lot, may be built contiguous with both side lot lines provided not more than six dwelling units are attached.
- (b) **Yards abutting a street.** The requirements in the applicable zone for yards abutting a street are not relieved by this section, and shall be met.
- (c) **Interior side yard.** Any exterior wall or portion thereof which faces but is not contiguous to a side lot line shall meet all applicable interior side yard requirements under this zoning ordinance; otherwise, the interior side yard requirements of this zoning ordinance shall not apply.
- (d) **Building separation.** Buildings on abutting lots but not attached to each other shall be separated by a distance of at least ten feet.
- (e) **Maintenance easement.** As a condition of issuance of a building permit for a dwelling having a wall contiguous to a lot line, the applicant shall furnish an easement from the owner of the lot abutting the wall providing for reasonable ingress, egress and use of the adjacent lot for the purpose of maintaining,

repairing and replacing the premises. Such easement shall be appurtenant to the lot on which the dwelling is located as the dominant tenement, and shall be recorded with the County Recorder prior to the issuance of the permit.

- (f) **Adjustment of lot property line.** Notwithstanding any provision of Chapter 33 to the contrary, the owner or owners of abutting lots either of which has thereon a zero side yard dwelling unit, may, by appropriate instrument, adjust the common side lot line by no more than 18 inches to make the wall intended to be contiguous with the common lot line actually contiguous. This adjustment shall move the line as a whole; and may, without the necessity of an adjustment and without making the premises nonconforming, reduce the required area or frontage of the lot, increase the allowable lot coverage, or any combination thereof necessary to make the side lot line and building contiguous within the limits of this subsection. The instrument accomplishing this revision, and a ~~survey~~ **replat** by a registered land surveyor evidencing the need for an description of such revision, shall be reviewed and approved by the Zoning Administrator prior to recording the instrument, otherwise the exemption granted by this subsection shall not apply.
- (g) **Accessory buildings.** The provisions of this section apply to accessory as well as main buildings.

**26.20 HOME OCCUPATIONS LIMITED.** A home occupation limited shall meet the following use and development standards:

- (a) The premises upon which the home occupation is conducted shall be the residence of the persons conducting the home occupation. No employees living off the premises are allowed.
- (b) The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. In a residential zone noise associated with the home occupation of more than 55dba at the lot line is prohibited.
- (c) No sign shall be displayed on the premises except such signs as are allowed in Chapter 31 for the zone in which the home occupation is located.
- (d) The home occupation shall be conducted entirely within the dwelling or any attached garage or in an unattached accessory building.
- (e) The total floor area of buildings on the premises, including accessory buildings, devoted to a home occupation shall not exceed 500 square feet in a residential zone and 1500 square feet in other zones.
- (f) No structural alterations shall be made to the dwelling that would be inconsistent with future use of the building exclusively as a dwelling.
- (g) No alteration to or use of the premises shall be made such as to reduce the number of required on-site parking spaces.
- (h) All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m.
- (i) There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the home occupation, except as provided in (j).
- (j) Repair of vehicles or a construction business shall be allowed as a home occupation only in the UT or UFF zone. Vehicles shall be screened by a sight-obscuring fence or be parked in a building. All repair shall be conducted within a building. There shall not be more than three vehicles associated with the home occupation parked on the premises at one time.

- (k) Deliveries to or from the dwelling shall not involve a vehicle rated at more than 1 ton.
- (l) Where a home occupation involves deliveries one off-street loading space shall be provided. If visits by customers occur two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces. During normal loading/unloading or customer parking periods the off-street loading and parking spaces shall be reserved exclusively for that use.
- (m) The dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
- (n) Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.
- (o) In order to establish a new home occupation an agreement shall be signed by the property owner and any lessee of the dwelling, that:
  - (1) Acknowledges the requirements of this Section;
  - (2) Agrees that the home occupation will be discontinued or brought into conformance with city requirements if the property is annexed; and
  - (3) Agrees that if the lot is in a UT ~~or UTF~~ zone, the owner, lessee, and their heirs or assigns will not remonstrate if annexation is proposed by the city.

**26.22 CHILD DAY CARE FACILITY CENTER.** Child day care ~~facility center~~ providing care for more than 12 children, including children of the provider, shall meet the following use and development standards:

- (a) Lot Size: Minimum of 6,000 square feet.
- (b) Screening: Outdoor play areas shall be fenced and the fence shall be sight obscuring except in the required yard abutting a street or roadway. Loading areas not located in a required yard abutting a street or roadway shall be screened by a sight-obscuring fence, wall or hedge.
- (c) Off street loading. At least one off-street loading space shall be provided for every six children served based on the maximum number served at any given time during the day. Up to two loading spaces may be provided in the required front yard. During normal hours of loading and unloading the off-street loading spaces shall be reserved exclusively for that use.
- (d) The provider of the day care services shall be the owner and occupant of the residence if the day care service is located in a residential zone and there is a residence on the lot.

**26.44 FUNERAL SERVICES AND CREMATORIES; AND CEMETERY SUBDIVIDERS AND DEVELOPERS.** Funeral service and crematories (SIC 726) and cemetery subdividers and developers (SIC 6553) shall met the following use and development standards:

- (a) Screening. The property shall be screened from all adjacent properties by a sight-obscuring fence, wall or hedge.

- (b) ~~Height. Gravemarkers, tombstone, monuments, and memorials shall not exceed five feet in height. Buildings (including, but not limited to mausolea, columbaria, and crypts) shall not exceed 35 feet in height.~~
- (b) Lot area. The minimum lot area is 10 acres for a cemetery except for pet cemeteries where the minimum lot area is three acres.

**26.60 RELIGIOUS AND MEMBERSHIP ORGANIZATIONS.** Religious and membership organizations shall meet the following use and development standards:

- (a) Side and rear yards. Minimum of 25 feet in or abutting every residential zone or use.
- (b) Landscaping. All required yard areas adjacent to streets or property in a residential zone not lawfully developed for buildings, structures, parking, loading or driveways shall be landscaped as provided in Chapter 29.
- (c) Off-street parking. No off-street parking or loading area shall be permitted within 10 feet of a residential zone or use.
- (d) Screening of off-street parking. Where any portion of an off-street parking area other than a garage is within 15 feet of a lot zoned or used for residential purposes, the perimeter of the parking area facing such residential zone or use shall be screened by a sight-obscuring fence, wall or hedge.
- (e) Street access. Unless permitted by the County, only one vehicle access driveway per street frontage shall be permitted in a residential zone, or on a local street in any other zone abutting a residential zone. Where a parking area is on property having frontage on a collector or arterial street, access shall be limited to such collector or arterial unless alternate access is required by the County.
- (f) Other related uses. Schools, child day care services, kindergartens, meeting facilities for clubs and organizations, and other similar uses which are not operated primarily for the purpose of religious instruction, worship, government of the church, or the fellowship of its congregation shall be permitted only to the extent to the activity is otherwise permitted in the zone. Storage of buses used to transport the congregation is permitted if buses area not parked closer that 20 feet to a lot in a residential zone.

**26.62 ELEMENTARY AND SECONDARY SCHOOLS.** Public and private elementary and secondary schools (SIC 8211) shall meet the following use and development standards:

- (a) Lot size. Minimum of 1000 square feet per student at maximum occupancy, or three acres, whichever is less.
- (b) Setbacks. Buildings shall setback from every lot line one foot for each foot of height to a maximum setback of 35 feet.
- (c) Off-street parking. No off-street parking or loading area shall be permitted within ten feet of any residential use or zone.
- (d) Other related uses. Child day care services; kindergarten; meeting facilities for clubs and organizations; other uses which are not operated primarily for the purpose of secular education, or school administration; secondary use of school facilities for non-profit events shall be permitted in the zone.

**26.814 PLANNED DEVELOPMENT STREETS AND ROADWAYS.** Any street bordering or within a planned development shall have public right-of-way and improvements consistent with adopted Marion County Department of Public Works standards and upon approval of the Board be accepted into the County road

system. Plans for all streets shall be submitted for review and approval by the Department of Public Works: Along streets the vision clearance requirements of Section 27.20, including intersections with roadways shall apply. Roadways shall be improved to the following standards:

- (a) Roadways shall be a minimum of 20 feet in width, curb to curb; provided that if parking is to be allowed on either side of the street the minimum width shall be increased by seven feet for each side of the street on which parking is to be allowed. Parking shall be parallel.
- (b) Roadways shall be paved with Portland cement concrete ~~of~~ **or** asphalt concrete and designed and constructed to adequately support traffic loads and provide adequate drainage.
- (c) Dead-end roadways over 300 feet in length shall have a cul-de-sac bulb with 38-foot curb radius. Shorter dead-end streets shall have a turnaround area. ~~No dead-end roadways shall have a turnaround area.~~ No dead-end roadway shall exceed 500 feet in length.
- (d) Concrete curbs shall be provided.
- (e) The roadway system shall have direct connection to a paved street.

**CHAPTER 27  
GENERAL DEVELOPMENT STANDARDS AND REGULATIONS**

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27.00	Applicability	
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\* Word **Terms** defined in Chapter 49

**27.13 REAR YARD PROJECTIONS.**

- (a) Planter boxes, window boxes, greenhouse windows, steps, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, **cornices, eaves,** gutters, solar collectors, and ornamental features, may project not more than 24 inches into a required rear yard.
- (b) A fire escape, balcony, outside stairway, cornice, heat pump, or other unenclosed, unroofed projection may project not more than five feet into a required rear yard provided that no portion thereof is within six feet of any lot line.
- (c) Uncovered porches, covered but unenclosed porches, or patios with roofs having no floor area more than four feet above grade and which shall not come closer than eight feet from the rear lot line are **except exempt** for this section. ~~exempt from all rear yard setback requirements, provided that any covered floor area shall be set back at least 8 feet from the rear lot line.~~
- (d) No permitted projection into a required rear yard shall extend within ten feet of the centerline of an alley, or within six feet of an accessory building.



- (e) Uncovered decks and patios attached to the main building when not elsewhere prohibited may be extended to the rear lot line provided they are four feet or less above grade measured directly beneath the outside edge of the deck or patio.

**27.53 REFUSE AND RECYCLING STANDARDS FOR MULTIFAMILY, COMMERCIAL AND INDUSTRIAL DEVELOPMENTS. The provisions in Chapter 8.05 MCC, Solid Waste Management, shall apply to all new development.**

## CHAPTER 28

### DEVELOPMENT STANDARDS FOR SECONDARY, ACCESSORY AND TEMPORARY STRUCTURES

Section	Title	Page
28.01	Accessory and Secondary Structure Regulations	
28.02	Accessory and Secondary Structure Location and Allowable Coverage	
28.03	Accessory and Secondary Structure Height	
28.10	Location, Height and Density of Fences, Walls and Hedges	
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28.12	Use of Hazardous Materials	
28.13	Sight-Obscuring Fences, Walls and Hedges	

#### **28.01 ACCESSORY AND SECONDARY STRUCTURE REGULATIONS.**

- (a) The regulations set forth in this chapter shall apply to all structures accessory or secondary to a permitted or conditional use on a lot in any zone. Except as specifically noted herein, the provisions of this section supplement and do not supersede other development standards set forth in this ordinance.
- (b) The provisions of this chapter shall not be deemed to waive or modify any requirement of this ordinance for vision clearance areas, notwithstanding subsection (a) of this section.
- (c) Accessory or secondary structures which are attached to a structure occupied by a primary use shall be considered as a portion of the primary structure and shall observe the same requirements as the primary structure. Accessory or secondary buildings shall be considered as being attached to a dwelling or mobile home on the same lot when located within five feet thereof, except for accessory structures in mobile home parks.

#### **28.02 ACCESSORY AND SECONDARY STRUCTURE LOCATION AND ALLOWABLE COVERAGE.**

- (a) Structures accessory or secondary to a use allowed **on property in a residential designation** ~~in a residential zone~~ may be located in a required rear yard provided:
  - (1) The lot coverage by all accessory or secondary structures located in the required rear yard, except fences or retaining walls shall total no more than 25% of the required rear yard; and
  - (2) The accessory or secondary structure shall setback at least one foot from any alley, or roadway adjacent to the rear lot line.
- (b) Structures accessory or secondary to a use allowed **on property in a residential designation** ~~in a residential zone~~ may be located in the non-required portion of the **side or rear yard** **provided they meet the setbacks for the primary structure.** ~~subject to Section 28.01 (c).~~
- (c) Structures accessory or secondary to a use allowed **on property in a commercial, industrial or public designation** ~~in commercial, industrial, P, UD and UT, and UTF zones~~, exclusive of fence and retaining walls, shall comply with required yards and setbacks for primary structures and shall be set back at least one foot from any alley or roadway. Accessory or secondary structures for a farm use in the UT ~~and UTF zones~~ shall not be located closer than 100 feet to a lot line adjacent to a residential zone.

**28.03 ACCESSORY AND SECONDARY STRUCTURE HEIGHT.** The following height limitations shall apply to accessory and secondary structures:

- (a) Structures in residential zones or the UD and UT ~~and UTF~~ zones shall not project above the following height limits: nine feet at the lot line, increasing one foot for each one foot of distance from the lot line to a maximum height of 20 feet. Roof drainage shall be accommodated within the confines of the property.
- (b) The maximum height of any structure in commercial, industrial and P zones shall be the height limits for structures accommodating primary uses in the applicable zone provided that where the side or rear lot line of a lot in these zones is adjacent to a lot in a residential zone the height limits in (a) shall apply to any structure within 20 feet of a residential, UD and UT ~~and UTF~~ zone.

**28.10 LOCATION, HEIGHT AND DENSITY OF FENCES, WALLS AND HEDGES.** The following provisions provide requirements and standards for the location, height and density of fences, walls and hedges in all zones for the purpose of providing light, air, privacy and safety:

- (a) Swimming pools shall be entirely enclosed by fences or walls not less than four feet in height before water is run into the pool.
- (b) Exclusive of vision clearance areas and special setback areas, in residential zones and the UT ~~UTF~~, and UD zones a fence or screen wall not more than eight feet high may be located within the buildable area of a lot and within any street, front, side or rear yard. When fences, screen walls or hedges are located within 10 feet of a property line abutting a street, that portion of the fence, wall or hedge above two feet in height must be less than 25% opaque when viewed from any angle at a point 25 feet from the fence, wall or hedge.
- (c) Exclusive of vision clearance areas and special setback areas, a fence or wall not more than 12 feet in height may be located within the buildable area or the street, front, side or rear yard in any zone except as provided in (b).

**28.11 MEASUREMENT OF HEIGHT OF FENCES, WALLS AND HEDGES.** All fences, walls and hedges along a street shall be measured from and along the sidewalk; or if no sidewalk exists, from and along the curb, or if no curb exists, from and along the finished shoulder grade of the street. All other fences, walls or hedges will be measured from and along the finished grade upon which the fence, wall or hedge is located.

**28.12 USE OF HAZARDOUS MATERIALS.** Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous material, except as follows:

- (a) Barbed wire or electrified fences enclosing livestock are permitted in any zone permitting farm use. Electrified fences shall be posted or flagged at not less than 25-foot intervals with clearly visible warnings of the hazard when adjacent to developed areas.
- (b) Barbed wire is permitted more than eight feet above grade in commercial, industrial, P and UT ~~and UTF~~ zones provided that barbed wire shall not extend over a street, alley or roadway.

**28.13 SIGHT-OBSCURING FENCES, WALLS AND HEDGES.** Wherever a sight-obscuring fence, wall or hedge is required under the provisions of this zoning ordinance, it shall conform to the provisions of this section:

- (a) Opacity. Fences and walls, to be "sight-obscuring", shall be at least 75% opaque when viewed from ~~any~~ **a 90-degree** angle ~~at a point 25 feet away~~ from the fence or wall. Hedges shall be of an evergreen species which will meet and maintain year-round the same standard within three years after planting.
- (b) Height. Except where otherwise limited, fences and walls shall be not less than six feet in height. Hedges shall be of a species capable of attaining a height of at least six feet within three years after planting. If at least 75% of the hedge plants do not achieve a six foot height after three growing seasons any plants less than five feet high shall be replaced with plants six feet high.
- (c) Maintenance. Fences and walls shall be structurally maintained in safe condition and be maintained opaque as required in subsection (a) of this section. Plants forming hedges shall be replaced within six months after dying with plants equal in height to healthy plants.

**CHAPTER 29  
LANDSCAPING**

Section	Title	Page
29.00	Landscaping Requirements	
29.01	Existing Development	
29.02	Existing Vegetation	
29.03	Prohibited Landscaping	
<del>29.04</del>	<del>Maintenance</del>	
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29.06	Parking Lot Landscaping	
29.07	Landscaped Yards	
29.08	Installation and Design Requirements	
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**29.00 LANDSCAPING REQUIREMENTS.** The provisions of this Chapter apply to all landscaping required under this zoning ordinance.

**29.01 EXISTING DEVELOPMENT.** Where the construction of, or addition to, a structure or parking area increases the total area of the lot covered by structures, paving, or both by more than 50%, the entire lot shall meet the landscaping requirements of this zoning ordinance; otherwise, only landscaping associated with the expansion shall be provided.

**29.02 EXISTING VEGETATION.** Existing vegetation which is retained as part of the development may be included as part of the landscaping requirement unless prohibited under Section 29.03.

**29.03 PROHIBITED LANDSCAPING.** No area required to be landscaped under any provision of this zoning ordinance shall include any artificial trees, plants, or turf, impervious surfacing or any carpeting designed as a visual substitute for lawn or other ground cover. Neither areas devoted to the cultivation of farm crops nor any area used for pasture shall be considered as landscaped for purposes of fulfilling any landscaping requirement under this zoning ordinance.

~~**29.04 MAINTENANCE.** All required landscaped areas, except for single family dwellings, shall include a permanently installed irrigation system unless a planting or maintenance plan not dependent on a permanent system has been approved by the Zoning Administrator. All required landscaped areas shall be cleared of all unplanned vegetation including weeds at least once each year prior to July. Landscape planting that dies shall be replaced by April 1 of the following year. A cover of organic or rock material shall be maintained in areas not covered by plants or water.~~

~~**29.05 LANDSCAPING EXEMPTIONS.** Undeveloped lots or the undeveloped portion of a developed lot where the undeveloped area is more than 4,000 square feet in area, are exempt from all landscaping~~

~~requirements of this zoning ordinance provided that undeveloped lots or undeveloped portions of developed lots in residential zones shall be maintained so that weeds and wild vegetation do not adversely affect developed lots.~~

**29.06 PARKING LOT LANDSCAPING.** Where more than 20 uncovered parking spaces are provided, an area equal to not less than five percent of the area devoted to driveways and required parking spaces shall be landscaped. The landscaping required in this section shall be within or abutting the area devoted to parking spaces and shall not include, but shall be in addition to, any required yard.

**29.07 LANDSCAPED YARDS.** Required yards and planting areas near buildings shall be landscaped as provided herein:

- (a) In residential zones all portions of required yards lying between a street or roadway and the dwelling or between the street or roadway and any sight-obscuring fence or hedge located within the required yard shall be landscaped.
- (b) In commercial, industrial, P, UD, and UT ~~and UTF~~ zones landscaping shall be provided in any required yard adjacent to a residential zone and in any required front or street yard, except area used for a driveway. The Zoning Administrator may also require use of shrubs and trees to reduce visual impact of building walls more than eight feet high and longer than 50 feet in commercial and industrial developments.
- (c) A landscaped area at least three feet wide shall be provided between any parking or loading spaces or driveway thereto, and a street or a lot in a residential zone unless a sight-obscuring fence or wall is provided along the lot line.

**29.08 INSTALLATION AND DESIGN REQUIREMENTS.**

- (a) Installation of required landscaping shall be a condition of issuance of a determination. Required landscaping shall be planted and installed prior to occupancy of any structure or establishment of a use except a single-family dwelling. Landscaping required on a lot occupied by a single-family dwelling shall be provided within two years of occupancy of the dwelling.
- (b) Plantings within landscaped areas shall be spaced so that the plants will achieve, within five growing seasons, ground coverage of at least 75% of the landscaped area. Landscaped areas not occupied by water shall be covered by organic or rock material.
- (c) Except in vision clearance areas and special setback areas, areas required to be landscaped in commercial and industrial zones between public streets and parking spaces and driveways shall be landscaped with berms and/or planting that will screen the parking area from view from the public.

**29.09 LANDSCAPING PLAN.** A landscape plan may be required as a condition of land use approval, and is required for all landscaping required under Section 29.08 (c). The Zoning Administrator shall determine if the plan meets the requirements of this ordinance before issuing a determination of conformance. A landscape plan shall be drawn to workable scale showing all plantings by common names together with their size at time of planting or expected coverage within five growing seasons, the location and type of ground cover, the size and configuration of other landscaping features, and show the areas to be watered by an irrigation system.

**CHAPTER 30  
OFF-STREET PARKING AND LOADING**

Section Title	Page
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30.01	Reduction of Parking Area Prohibited; Exception
30.02	Location
30.03	Fractional Measurements
30.04	Ownership of Parking and Loading Areas
30.05	Off-Street Vehicle Parking Requirements
30.06	<b><u>Off-Street Bicycle Parking Requirements</u></b>
30.07	Joint Use of Parking Areas
30.08	Classification of Uses for Purposes of Joint Use Parking
30.09	Construction of Parking Facility Notification to DEQ
30.10	<b><u>Satisfaction of Off-street Parking Requirements Through Alternative Modes of Transportation</u></b>
30.11	<b><u>Small Car Parking</u></b>
30.12	<b><u>Car Pool and Van Pool Parking</u></b>
30.13	Off-Street Loading
30.14	Parking and Loading Area Development Requirements
30.15	<del>Parking Plan Required</del>
30.15	Driveway Development Standards
30.16	Temporary and Seasonal Gravel Surfaced Parking and Loading Areas
30.17	Minimum Parking Space Requirements
30.18	Minimum Loading Space Requirements
30.19	Parking Space Design Standards
30.20	Minimum Driveway Widths
30.21	Outdoor Storage Area Surfacing
30.22	Lighting of Outdoor Storage or Parking Areas

**30.01 REDUCTION OF PARKING AREA PROHIBITED; EXCEPTION.** Off-street parking and loading areas which existed on ~~the effective date of this ordinance,~~ **May 30, 1990,** or which are provided as required by this Chapter shall be maintained, or equivalent parking and loading areas provided; except that

- (a) If this ordinance reduces the number of required off-street parking or loading spaces, an affected use may diminish its parking and loading area to the new requirements.
- (b) **When adjacent to transit service, the minimum number of required parking spaces may be reduced by up to 10% to redevelop the existing parking area for transit related uses including transit stops, pullouts and shelters, park and ride lots, transit oriented developments and similar facilities where appropriate.**

**30.02 LOCATION.**

- (a) Off-street parking and loading areas required by this ordinance shall be provided on the same lot with the use except that:
  - (1) In any residential zone, ~~up to 50% of~~ automobile parking spaces for dwellings and other uses permitted in a residential zone may be located on ~~contiguous~~ another lots ~~or on a~~ **if**

the lot is within 200 feet of ~~across an alley from~~ the lot with the primary use.

- (2) In non-residential zones up to 50% of the required parking area may be located off the site of the primary use or structure if it is within ~~3500~~ 300 feet of such site.
- (b) Off-street parking is incidental to the use that it serves. As such, it shall be located in a zone appropriate to that use, or where a public parking area is a specific permitted use.

**30.03 FRACTIONAL MEASUREMENTS.** When calculations for determining the number of required off-street parking or loading spaces result in a requirement of fractional space, any fraction of a space less than one-half shall be disregarded, and a fraction of one-half or greater shall be counted as one full space.

**30.04 OWNERSHIP OF PARKING AND LOADING AREAS.** Except as provided for joint use parking in Section 30.06, the land to be provided for off-street parking and loading areas, including driveways, aisles, and maneuvering areas shall be owned in fee title by the owner of the property served by the parking; or in commercial and industrial zones the parking may be provided by a permanent and irrevocable easement appurtenant to the property served by the parking; or be leased for a minimum term of five years, provided that upon expiration or termination of the lease, the parking requirements of this ordinance shall otherwise be fully met within 30 days or the use discontinued until such requirements are met.

**30.05 OFF-STREET VEHICLE PARKING REQUIREMENTS.**

- (a) Except as otherwise specifically provided in this ordinance, off-street parking spaces shall be provided in amounts not less than those set forth in Section 30.157.
- (e**b**) For any proposed use not listed in Section 30.157, the Zoning Administrator shall determine the parking space requirement for the most nearly similar use listed in Section 30.17.15 with regard to traffic generation.

**30.06 OFF-STREET BICYCLE PARKING REQUIREMENTS.** In the Salem/Keizer urban growth boundary bicycle parking shall be provided for all new multiple family residential developments (four units or more), commercial, industrial and institutional uses, in the following manner:

- (a) The minimum number of required bicycle parking spaces are listed in Section 30.17.
- (b) Bicycle parking spaces shall be a minimum of six feet long and two feet wide and provide a minimum four foot access aisle unless spaces are provided to store the bicycle in a hanging position. Bicycle racks shall be provided as outlined in sub-section (c) of this section.
- (c) Bicycle racks must allow the use of the bicyclist's own locking device.
- (d) Bicycle parking shall be provided within a convenient distance of, and clearly visible from the primary building entrance. This parking shall not be further than 50 feet from the public entrance to the building.
- (e) Direct access to the public right-of-way, with access ramps if necessary, and pedestrian access from the bicycle parking to the building entrance must be provided.
- (f) The following uses are exempted from the bicycle parking requirements:
- (1) Seasonal uses, such as fireworks stands and Christmas tree sales;
- (2) Drive-in theaters;



**(3) Self-storage facilities.**

**30.067 JOINT USE OF PARKING AREAS.** The Zoning Administrator may authorize the joint use of parking areas by the following uses or activities as a conditional use in every zone under the following conditions:

- (a) Up to 50% of the off-street parking spaces required by this ordinance for a church, auditorium in a school, theater, bowling alley, dance hall, eating or drinking establishment may be satisfied by the off-street parking spaces provided by uses occupied only during the daytime on weekdays.
- (b) Up to 50% of the off-street parking spaces required by this ordinance for any daytime use may be satisfied by the parking spaces provided for nighttime or Sunday uses pursuant to Section 30.078.
- (c) All jointly used spaces shall be located with relation to all uses relying on such spaces within the applicable distance set forth in Section 30.02.
- (d) The Zoning Administrator must find that there is no substantial conflict in the principal operating hours of the buildings or uses for which joint use of off-street parking facilities is proposed.
- (e) A properly drawn legal instrument executed by the parties concerned for joint use of off-street parking facilities, shall be filed with the Zoning Administrator and recorded. Joint use parking privilege shall continue in effect only so long as such an instrument, binding on all parties, remains in force. If such instrument becomes legally ineffective, then parking shall be provided as otherwise required in this ordinance within 60 days.

**30.078 CLASSIFICATION OF USES FOR PURPOSES OF JOINT USE PARKING.**

- (a) The following uses are considered as daytime uses for purposes of Section 30.067: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings, and other similar primarily daytime uses as determined by the Zoning Administrator.
- (b) The following uses are considered night-time or Sunday uses for purposes of Section 30.067: auditoriums incidental to a public or private school, churches, bowling alleys, dance halls, theaters, drinking and eating establishments, and other similar primarily night-time uses as determined by the Zoning Administrator.

**30.089 CONSTRUCTION OF PARKING FACILITY -- NOTIFICATION TO DEQ.** Prior to the construction of any vehicle parking facility for the use of 250 or more motor vehicles, or a parking facility that consists of two or more levels, notification shall be made by the developer to the State of Oregon Department of Environmental Quality.

**30.10 SATISFACTION OF OFF-STREET PARKING REQUIREMENTS THROUGH ALTERNATIVE MODES OF TRANSPORTATION.** Notwithstanding any other provision of this code, off-street parking requirements for nonresidential uses may be satisfied by implementation of a plan whereby the owner or any lessee will provide for or will increase the use of alternate modes of transportation and thereby decrease the need for off-street parking. Such a plan shall be first approved by the Zoning Administrator as a conditional use. Final approval shall be conditioned upon full, operational implementation of the plan, including any required payments, within such period as may prescribed.

**30.11 SMALL CAR PARKING.**

- (a) Within the Salem/Keizer Urban Growth Boundary

- (1) Small car parking spaces may satisfy up to 75% of the spaces required by Section 30.17.
- (2) A small car parking and loading space and maneuvering area size shall be as provided in Section 30.19.
- (3) Each small car space shall be striped on all four sides by a four inch painted line, except those sides, which are adjacent to the edge of the paved area, or are adjacent to a wall or curb.
- (4) Small car parking areas shall be signed as "Small Car Parking Only." Signs shall be prominently displayed within or immediately adjacent to each small car parking space or clearly indicated area of two or more such spaces, and shall be composed of letters not less than four inches in height.
- (5) Aisles serving small car spaces only shall have a minimum width of 22 feet. Aisles serving both small and standard car spaces shall have a minimum width of 24 feet.

(b) Within other urban growth boundaries

- (1) Small car parking spaces may satisfy up to 30% of the spaces required by Section 30.17.
- (2) A small car parking and loading space and maneuvering area size shall be as provided in Section 30.19.
- (3) Small car parking spaces in excess the requirements of this chapter may be provided as long as all such spaces are marked "Compact Only".

**30.12 CAR POOL AND VAN POOL PARKING.** Within the Salem/Keizer urban growth boundary new non-residential developments with 60 or more required parking spaces shall designate at least five percent of the total parking spaces for car pool or van pool parking. These designated car pool and van pool parking spaces shall be preferential in that they shall be the closest employee parking spaces to the building entrance normally used by employees, except for any handicapped parking provided. The car pool/van pool spaces shall be clearly marked "Reserved-Car pool/Van pool Only" with hours of use.

**30.13 OFF-STREET LOADING.**

- (a) Except as otherwise specifically provided in this ordinance, off-street loading shall be provided in amounts not less than those set forth in Table Section 30.16 18.
- (b) An off-street parking area meeting the requirements of this chapter may also be used for loading when the use does not require a delivery vehicle which exceeds a combined vehicle and load rating of 8,000 pounds, and when the parking area is within 25 feet of the building or use which it serves.
- (c) ~~Off street loading and unloading of vehicles with a combined vehicle and load rating of 8,000 pounds shall be done from designated loading spaces, except as provided in 30.10 (b).~~

**30.14 PARKING AND LOADING AREA DEVELOPMENT REQUIREMENTS.** All parking and loading areas required under this ordinance, except those for a single family dwelling on a lot, shall be developed and maintained as follows:

- (a) Location on site. Required yards abutting a street shall not be used for these areas unless otherwise specifically permitted in this ordinance [see Section 25.20 (d)]. Side and rear yards that do not abut a street may be used for such areas when developed and maintained as required in this ordinance.
- (b) Surfacing. Except as provided in Section 30.16 or as an approved conditional use, all parking and loading areas and driveways thereto shall be paved to provide an all weather surface with asphalt concrete, or Portland cement concrete, clay bricks or concrete blocks. The type of surfacing shall be approved by the Marion County Department of Public Works. Parking and loading areas shall be adequately designed, graded, and drained. Drainage connections to a public storm drain system shall be approved by the Marion County Department of Public Works. A storm water detention system conforming to the Marion County Department of Public Works' standards may be required.
- (c) Bumper guards or wheel barriers. Bumper guards or wheel barriers shall be so installed that no portion of a vehicle will project into a public right-of-way or over adjoining property. The area beyond the wheel barriers or bumper guards shall be surfaced as required in (b) or landscaped.
- (d) Size of parking spaces and maneuvering areas. The parking area, each parking space and all maneuvering areas shall be of sufficient size and all curves and corners of sufficient radius as determined by the Zoning Administrator to permit the safe operation of a standard size automobile subject to the following additional minimum requirements:
- (1) Parking and loading space and maneuvering area size shall be as provided in Section 30.17 9 and ~~30.18~~20.
  - (2) Maximum 10% grade for parking spaces and 15% for aisles.
  - (3) Directional signs and pavement marking shall be used to control vehicle movement in parking area.
- (e) Access. All parking or loading areas shall be served with either separate ingress and egress by two or more access driveways ~~permitting through traffic, or with include an adequate~~ turnaround area that is adequate for the expected volume and character of traffic. ~~The turnaround shall always be available and usable. so that vehicles do not backout into streets and do not use public streets for maneuvering or backing to get into the parking and loading areas.~~ A current driveway permit from the Marion County Department of Public Works is required for all access driveway installation or changes in use.
- (f) Lighting. Parking or loading areas that will be used at night-time shall be lighted. Outdoor lighting shall be directed away from any adjacent residential zoned or used property, and shall not cast a glare onto moving vehicles on any public street.
- (g) Landscaping. Landscaping shall be provided as required in Section 29.06.
- (h) Underground parking. Notwithstanding any other provision of this ordinance, parking areas in all zones other than the UT and UTF zone may be located underground beneath required yards provided no portion of the structure enclosing the parking area projects into the required yard, and all required yards beneath which parking is located are landscaped as provided in Section 29.07.
- ~~(i) **30.12 – PARKING PLAN REQUIRED.** Plans for all parking and loading areas required under this Section at a workable scale, shall be submitted to the Zoning Administrator for approval prior to issuance of a determination of conformance; or, if no building permit is required, at the time of application for a driveway permit; or, if no such permit is required, prior to commencing any paving or use of the parking or loading area. –No such work or use shall commence prior to approval by the County of the plans required in this subsection.~~

**30.15 DRIVEWAY DEVELOPMENT STANDARDS.** All driveways providing access to parking spaces and loading areas required under this ordinance, including those for a single family dwelling on a lot, shall conform to the following development standards:

- (a) Grade. The maximum difference between the curblin e and finished floor level of the garage or carport for grade of driveways serving individual lots shall not exceed 15%, provided the Director of Public Works may permit a difference in elevation not exceeding a 20% slope provided that there is no slope exceeding 25% between any two points in the driveway, and that adequate vertical curves or ramps are used in the driveway to assure usability by a standard size automobile.
- (b) Surfacing. The surface of driveways shall be pavement provided that driveways to a single family dwelling shall be paved if the street is curbed.
- (c) Drainage. All driveways shall be adequately drained and the provisions for drainage shall be approved by the Director of Public Works.
- (d) Street access. The entries and exits of driveways on a public street shall conform to the provisions of the driveway permit required by the Marion County Department of Public Works as well as the specific provisions of this ordinance.
- (e) Turnarounds. If a driveway serving more than two parking or loading spaces serving a use other than a single family dwelling has only one point of access to a public street, or does not loop to a single street access, a turnaround area approved by the Director of Public Works conforming to Section 30.11 (e) shall be provided.
- (f) ~~Location. Driveways to parking and loading spaces may be located in the required front yard and yards adjacent to streets provided they are not located closer than 5 feet to the side or rear lot line and the intervening area is landscaped.~~ Width of driveways. Driveway width shall be as specified by the Director of Public Works through the driveway permit process.
- (g) "No Parking" signs. Where a driveway is an integral part of a parking, loading or vehicle storage area and not simply a means of access to such area, one "no parking" sign for every 60 feet of length of the driveway shall be erected, but in no event shall less than two signs be erected.

**30.16 TEMPORARY AND SEASONAL GRAVEL SURFACED PARKING AND LOADING AREAS.**

- (a) As used in this section, "seasonal" means limited to a period of no more than six months in any 12 month period, but related to a unique or an annually occurring event or condition; and "temporary" means limited to a fixed maximum term not to exceed five years, and related to a condition or need which is expected to cease within that fixed term.
- (b) The Zoning Administrator may grant ~~a conditional use permit~~ an adjustment for the use of a gravel surfaced parking or loading area in a zone on either a seasonal or temporary basis upon being satisfied that the seasonal or temporary need cannot be otherwise reasonably and economically met; the use will be, in fact, seasonal or temporary; and each of the following conditions is or will be met by the applicant:
  - (1) A conditional use seasonal permit for seasonal parking shall be granted for only that period, not to exceed six months in any 12 month period, as is necessary to meet a genuine need for gravel parking and may be renewed annually upon a new adjustment application;

- (2) At the conclusion of the seasonal period, the gravel area used for seasonal parking shall be closed to vehicle access by a physical barrier.
- (3) A conditional-use **temporary** permit for temporary parking shall be granted for a period not to exceed one year and annually renewable for no more than four additional years, which is necessary to meet a genuine need for gravel parking.
- (4) **The seasonal or temporary permit may be renewed annually, up to a total period of five years. The applicant shall be required to submit written evidence that the facts upon which the approval was originally based have not changed to an extent sufficient to warrant an entirely new conditional use application. If the administrator finds a substantial change in the circumstances upon which approval was originally granted, he or she may require a new adjustment application for the renewal.**
- (5) Gravel parking and loading areas shall be improved with a minimum of four inches of base rock covered by a minimum of two inches of three-quarter inch or smaller crushed rock as a leveling course, **except that, gravel parking and loading areas used exclusively by passenger cars need only be improved with a minimum of three inches of base rock;**
- (6) No gravel parking or loading area shall be permitted within 500 feet of any residential zone.
- (7) Gravel parking and loading areas shall be screened from all adjacent uses by a sight-obscuring fence, wall or hedge.
- (8) Wheel barriers of cement concrete, asphalt, wood, or other materials approved by the County shall be provided **to designate and protect each parking space.**
- (9) Parking lot signing approved by the County shall be provided.
- (10) No gravel parking area shall exceed 15,000 square feet; **provided that any more restrictive area requirement established by state or federal law or administrative regulation as applicable shall be met.**
- (11) A landscaped area at least five feet in depth, which may include the required screening, shall be provided along the perimeter of each gravel parking area.
- (11) All access to streets shall conform to the provisions of the required driveway permit issued by the Marion County Department of Public Works.
- (12) The graveled parking is approved in writing by the appropriate city if located outside of a sewer or water district.

All of the above to match city code.

**30.17 MINIMUM PARKING SPACE REQUIREMENTS.**

USE (Standard Industrial Classification)	<u>Minimum No. of Automobile Spaces</u>	<u>Minimum No. of Bicycle Parking Spaces</u>
1. <del>Attached and detached single family dwelling units on a lot and mobile home on a lot</del>	Two spaces per dwelling or mobile home unit	<u>NA</u>

**Buildings containing no more than three dwelling units**

2.	Two family shared housing	Three parking spaces per dwelling	<u>N/A</u>
3.	Multi-family dwellings containing <del>two</del> four or more dwelling units	Two spaces per dwelling unit	<u>The greater of four spaces or .1 space per dwelling unit</u>
4.	Low income housing for those 62 or more years of age	One space per four dwelling units.	<u>The greater of four spaces or .1 space per dwelling unit</u>
5.	Retirement centers	One space per two dwelling units	<u>The greater of four spaces or .1 space per dwelling unit</u>
6.	Agriculture, forestry and fishing (SIC 01, 02, 07, 08, 09) except SIC 074 and 075	Five spaces when retail sales <u>are</u> involved	<u>Two spaces when retail sales are involved</u>
7.	A. Veterinary services (SIC 074) B. Animal services, except veterinary (SIC 075)	One space per 400 square feet of gross floor area	<u>Two spaces when retail sales are involved</u>
8.	A. Mining: (SIC 10, 11, 12, 13 & 14)  B. Construction: (SIC 15, 16 & 17)  C. Manufacturing: (SIC 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39)  D. Transportation, communications, electric, gas and sanitary services (SIC 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49)	The greater of the following:  (1) .75 spaces per employee,  (2-a) 0-49,999 square feet of gross floor area – one space per 5,000 square feet,  (2-b) 50,000 - 99,999 square feet of gross floor area - one space per 10,000 square feet  (2-c) 100,000 or greater square feet of gross floor area – one space per 15,000 square feet	<u>For each use in Division A and B: four spaces</u>  <u>For each use in Division C and D: The greater of four spaces or one space for every four required automobile spaces</u>
9.	Water transportation services, not elsewhere classified - marinas only (SIC 4469)	One space per boat berth or docking space	<u>Two spaces</u>
10.	Wholesale trade (SIC 50 and 51)	One space per 1,500 square feet gross floor area	<u>One space for every 10 required automobile spaces</u>
11.	A. Building materials,	One space per 900 square feet	<u>The greater of four</u>

	hardware, garden supply and mobile home dealers (SIC 52); B. Automobile dealers and gasoline service stations (SIC 55); C. Home furniture, home furnishings and equipment Stores (SIC 57)	of gross floor area	<u>spaces or one space per 20,000 square feet of gross floor area</u>
12.	A. General merchandise stores (SIC 53); B. Food stores (SIC 54); C. Apparel and accessory stores (SIC 56); D. Miscellaneous retail (SIC 59)	One space per 225 square feet of gross floor area except 250 square feet for buildings of more than 10,000 square feet of gross floor area.	<u>The greater of four spaces or one space per 20,000 square feet of gross floor area.</u>
13.	Eating and drinking places (SIC 58)	One space per 225 square feet of gross floor area	<u>The greater of four spaces or one space per 1,000 square feet of gross floor area.</u>
14.	Banking (SIC 60); credit agencies other than banks (SIC 61)	One space per 500 square feet of gross floor area	<u>The greater of four spaces or one space per 3,000 square feet of gross floor area.</u>
15.	<del>Credit Agencies other than Banks (SIC 61);</del> Security and commodity brokers, dealers, exchanges and services (SIC 62); insurance (SIC 63); insurance agents, brokers, and service (SIC 64); real estate (SIC 65), combinations of real estate, insurance, loans, law offices, (SIC 66); holding and other investment offices (SIC 67); business services (SIC 73); miscellaneous repair services (SIC 76); legal services (SIC 81); corresponding schools and vocational schools (SIC 824); schools and educational services not elsewhere classified (SIC 829); social services (SIC 83); engineering, accounting, research, management, and related services (SIC 81); miscellaneous services	One space per 350 square feet of gross floor area	<u>The greater of four spaces or one space per 7,000 square feet of gross floor area.</u>

(SIC 89).

- |     |   |   |   |
|-----|---|---|---|
| 16. | Hotels, rooming houses, camps and other lodging places (SIC 70)<br><del>Lodging Places (SIC 70)</del> | One space per guest room or suite   | <u>The greater of four spaces or one space per 50 rooms</u>                               |
| 17. | Personal services (SIC 72) except: SIC 721, 726   | One space per 350 square feet of gross floor area   | <u>The greater of four spaces or one space per 3,500 square feet of gross floor area.</u> |
| 18. | Laundry, cleaning and garment services (SIC 721)  | One space per 1,000 feet of gross floor area  | <u>One space for every 10 required automobile spaces</u>                                  |
| 19. | Funeral service and crematories (SIC 726)   | One space per five seats or 10 feet of bench length in chapels  | <u>One space for every 50 seats or 100 feet of bench length</u>                           |
| 20. | Automobile repair, services and parking (SIC 75)  | One space per 900 square feet of gross floor area   | <u>One space for every 10 required automobile spaces</u>                                  |
| 21. | Motion picture (SIC 78) except: SIC 783   | One space per 350 square feet of gross floor area   | <u>The greater of four spaces or one space per 3,500 square feet of gross floor area.</u> |
| 22. | Motion picture theaters (SIC 783)   | One space per five seats or 10 feet of bench length   | <u>One space for every 50 seats or 100 feet of bench length</u>                           |
| 23. | Amusement and recreation services, (SIC 79) except items 24, 25, 26, 27 below                         | One space per 100 square feet of gross floor area   | <u>The greater of four spaces or one space per 500 square feet of gross floor area</u>    |
| 24. | Commercial sports (SIC 794)   | One space per five seats or 10 feet of bench length or 25 square feet of floor area of assembly space                                 | <u>One space for every 50 seats or 100 feet of bench length.</u>                          |
| 25. | Golf courses, private or public (SIC 7992, portion of 7997)   | Four spaces per <del>green</del> <u>tee</u>   | <u>Four spaces</u>  |
| 26. | Tennis courts, racquetball courts, or handball courts (portion of SIC 7997)                           | Three spaces per <del>tennis court</del> , 1.5 spaces per <del>racquetball or handball courts</del> <u>plus one space per 10 feet</u> | <u>One space per court</u>  |



of bench length

27.	Amusement parks (SIC 7996)	Set by interpretation	<u>Set by interpretation</u>
28.	Health services (SIC 80) except SIC 805, 806	One space per 350 square feet of gross floor area	<u>The greater of four spaces or one space per 3,500 square feet of gross floor area</u>
29.	Nursing and personal care care facilities (SIC 805)	One space per three beds	<u>One space per 30 beds</u>
30.	Hospitals (SIC 806)	One and one-half spaces per bed	<u>One space per 30 beds</u>
31.	Elementary schools (SIC 821)	<del>Two spaces per classroom and 1 space per 25 sq. ft. of floor area in multi-purpose room</del>	<u>Eight spaces per classroom</u>
32.	Secondary schools (SIC 821)	One space per six students for which the school is designed to accommodate	<u>Eight spaces per classroom</u>
33.	Colleges, universities, pro- fessional schools and junior colleges (SIC 822)	One space per four students for which the school is designed to accommodate	<u>The greater of four spaces or one space per 10,000 square feet of gross floor area</u>
34.	Libraries (SIC 823), museums, art galleries, botanical and zoological gardens (SIC 84)	One space per 400 square feet of gross floor area	<u>The greater of four spaces or one space per 7,000 square feet of gross floor area</u>
35.	Membership organizations (SIC 86) except SIC 866	One space per 350 square feet of gross floor area	<u>The greater of four spaces or one space per 7,000 square feet of gross floor area</u>
36.	Religious organizations (SIC 866)	One space per five seats or 10 feet of bench length	<u>One space per 50 seats or 100 feet of bench length</u>
38.	SIC Division J. public administration (SIC 91, 92, 93, 94, 95, 96, and 97) except SIC 9223	One space per 500 square feet of gross floor area	<u>One space per 5,000 square feet of gross floor area</u>
39.	Correctional institutions (SIC 9223)	One space per 2,000 feet of gross floor area	<u>One space per 50 beds</u>
40.	For any uses not listed above, and		

for secondary or temporary uses that require off-street parking, the Zoning Administrator shall make an interpretation of the parking space requirements as provided in Section 35.20.

**30.18 MINIMUM LOADING SPACE REQUIREMENTS.**

<u>USE</u>	<u>MINIMUM NO. OF SPACES</u>	<u>MINIMUM SIZE OF SPACE</u>		
		<u>WIDTH</u>	<u>LENGTH</u>	<u>HEIGHT</u>
(1) Multi-family Dwelling Units:				
0-49	0			
50-99	1	12 ft.	19 ft.	12 ft.
100-199	2	"		
200 and over	3	"		

If a recreational or service building is provided, at least one of the required loading spaces shall be located in conjunction with the recreational or service building.

- (2) For buildings used entirely for office occupancy:

Gross Square Footage of Floor Area				
Under 20,000	0			
20,000 - 59,999	1	12 ft.	<del>30</del> <u>19</u> ft.	<del>14</del> <u>12</u> ft.
60,000 - 249,999	2	"		

For each additional 100,000 square feet or any portion thereof over 250,000 square feet, one additional loading space.

- (3) Commercial, non-office, public and semi-public:

Gross Square Footage of Floor Area				
Under 10,000	0			
10,000 - 59,999	1	12 ft.	<del>55</del> <u>30</u> ft.	14 ft.
60,000 - 249,999	2	"		

For each additional 100,000 square feet or any portion thereof over 250,000 square feet, an additional loading space.

- (4) Industrial:

Gross Square Footage of Floor Area				
Under 5,000	0			
5,000 - 99,999	1	12 ft.	<del>55</del> <u>40</u> ft.	14 ft.
100,000 - 239,999	3	"		
240,000 - 319,000	5	"		
320,000 - 399,999	6	"		
400,000 - 489,999	7	"		

490,000 - 579,999	8	"
580,000 - 669,999	9	"
670,000 - 759,999	10	"

For each additional 100,000 square feet or any portion thereof over 760,000 square feet, an additional loading space is required.

- (5) ~~The minimum loading space requirements for secondary or temporary uses shall be established by interpretation.~~

**30.19 PARKING SPACE DESIGN STANDARDS.** Parking spaces required by this ordinance shall conform to the design standards herein. No portion of a parking space shall be located in a required landscaped yard.

Width and Length of Parking Spaces:

Parking spaces shall be nine feet wide and 17 feet long except as follows:

- (a) Compact **Small car** parking spaces at reduced width of **shall be eight 8.5 feet wide and 15 feet long** for no more than thirty (30) percent of the parking spaces required, and for spaces in excess of the requirements of this Chapter may be provided as long as all such spaces are marked "Compact Only."
- (b) Where a landscaped area, fence or wall is alongside a parking space the space shall be 10 feet wide, **except a small car space shall be 8.5 feet wide.**

**30.20 MINIMUM DRIVEWAY WIDTHS.** Driveways providing access to parking spaces shall conform to the design standards herein.

- (a) Standards for driveways providing access to parking spaces for dwellings:

Number of parking spaces accessed:

One parking space	10 feet
Two parking spaces	16 feet
Three or more parking spaces	22 feet (except as provided in (b) for driveways with adjacent parking spaces)

- (b) Standard for driveways providing access to parking spaces for all other uses:

One-way driveway, no parking adjacent to driveway	12 feet
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Two-way driveway, no parking adjacent to driveway	22 feet
---	---------

Driveways with parking adjacent on one or both sides:

Angle of parking spaces	Min. width of driveway
0 to 40	12 feet
41 to 45	13 feet
46 to 55	15 feet
56 to 70	18 feet
71 to 90	24 feet

**CHAPTER 16.31  
SIGNS**

Section	Title	Page
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16.31.04	Signs Generally Permitted	
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16.31.07	Signs in CO Zone	
16.31.08	Signs in Other Zones	
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**16.31.06 SIGNS PERMITTED IN RESIDENTIAL, UD AND UT ZONES.** Except as provided in Section 16.31.04, no sign shall be erected or maintained in Residential, UD and UT zones except as set forth in this section:

(a) Maximum square footage:

(1) RS Zone:

- (A) **For single family, duplex, or home occupation, one unlighted wall or window sign not exceeding four square feet.**
- (B) For uses other than dwellings **those in (A) above**, one freestanding internally illuminated or electronic display sign not exceeding 32 square feet with a dwell time of one hour, except changes to correct hour-and-minute or temperature information, which may change no more often than once every three seconds.
- (C) One unlighted temporary sign not exceeding six square feet and 30 inches above grade visible for 60 days twice per year.
- (D) A temporary sign up to 32 square feet may be approved as an adjustment as provided in section 31.13.

(2) RL, RM, UD, and UT Zones:

(A) **For single family, duplex, or home occupation, one unlighted wall or window sign not exceeding four square feet.**

(B) For uses other than dwellings **those in (A) above**, one internally or indirectly illuminated freestanding sign or one electronic display sign not exceeding 32 square feet with a dwell time of one hour, except changes to correct hour-and-

- (c) One-way driveways shall be clearly marked or signed.
- (d) Curves and corners where a driveway does not have adjacent parking spaces shall have a minimum inside radius of 25 feet at the curb or pavement edge. Curves and corners where there are adjacent parking spaces shall have a minimum inside radius of 35 feet at the curb or pavement edge.
- (e) The widths and radii herein apply only to driveways on private property. For driveways accessing public streets, the widths and radii of driveways within the limits of the public street right-of-way shall conform to Department of Public Works' standards.

**30.21 OUTDOOR STORAGE AREA SURFACING.**

- (a) Where commercial, industrial, or P zones permit storage of vehicles, boats, aircraft, equipment, containers or merchandise of any type outside of a building, or if such storage is permitted as part of a conditional use in any zone, such storage areas and any access driveway shall be paved unless a conditional use is granted.
- (b) Drainage from paved or graveled outdoor storage areas shall be contained on-site unless plans for off-site drainage have been approved by the Marion County Department of Public Works.

**30.22 LIGHTING OF OUTDOOR STORAGE OR PARKING AREAS.** Lighting of outdoor storage or parking areas shall be directed away from adjacent residential properties and public streets.

minute or temperature information, which may change no more often than once every three seconds.

~~(B)~~(C) One unlighted temporary sign not exceeding six square feet and 30 inches above grade visible for 60 days twice per year.

~~(C)~~(D) A temporary sign up to 32 square feet may be approved as an adjustment as provided in section 31.13.

~~(D)~~(E) For apartments and retirement homes, only one temporary banner sign not exceeding 50 square feet per street frontage, located on that frontage and visible for 30 days four times per year.

**CHAPTER 33**  
**SUBDIVISION AND PARTITION REQUIREMENTS**

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33.106	Adjustments from Regulations
33.108	Appeal Procedure
33.110	Lots Created in Violation of This Chapter

**33.01 PURPOSE.** In the interpretation and application of this Chapter, the provisions hereof shall be held to be the minimum requirements adopted for the public health, safety, and welfare. To protect the people, among other purposes, such provisions are intended to provide for permanently wholesome community environment, adequate public services and safe streets for accomplishing, among other things, the following objectives:

- (a) Better living conditions within new subdivisions.
- (b) Orderly and economic development of urbanizable land.
- (c) Simplification and definiteness of land descriptions.
- (d) Establishment and development of streets, utilities, drainage systems and public areas.
- (e) Stabilization of property values in the subdivision and adjacent areas.
- (f) Provide standards and regulations that will inform the public and aid in uniform enforcement.
- (g) To regulate the subdividing and partitioning of land within urban growth boundaries in Marion County in accord with applicable state statutes and the State Planning Goals.

**33.02 GENERAL DEFINITIONS.** For the purpose of this Chapter, words used in the present tense include the future, the singular number includes the plural, and the term "this Chapter" shall be deemed to include all subsequent amendments.

**BLOCK** The properties abutting on one side of a street between either:

- (a) Two cross streets; or
- (b) Between the city limits and the nearest cross streets; or
- (c) When there is only one cross street:
  - (1) Between a cross street and the dead end of a street;
  - (2) Between a cross street and a line projected from the centerline of an intersecting street, such as a "T" intersection;
  - (3) Between a cross street and a point 400 feet from the particular property under consideration when there is no other cross street or intersecting street within 400 feet; or
- (d) When there are no cross streets, then the block shall be between the points 400 feet from each side of the property under consideration and along the street.

**BUILDING LINES** The lines indicated, or otherwise described, limiting the area upon which structures may be placed.



**CENTERLINE** The legally described survey lines on which the right-of-way was initially established or to which the right-of-way was subsequently relocated.

**DIVISION** means the Marion County Planning Division.

**DIRECTOR** means the **Planning** Director of the Community Development Department or designee.

**EASEMENT** The right to use or cross a parcel of land.

**FLAG LOT** A lot, the major portion of which has access to a street by means of a narrow strip of land not less than 20 feet in width.

**MANUFACTURED HOME** A vehicle or structure constructed for movement on public highways, that has sleeping, cooking, and plumbing facilities, is intended for human occupancy, and is being used for residential purposes.

**PARTITION** Either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter.

**PARTITION LAND** To divide ~~an area or tract of land~~ **to create not more than** ~~into two or three parcels of~~ **land** within a calendar year.

**PLANNED DEVELOPMENT** A subdivision of land incorporating common open space with each dwelling being placed on its own lot. See Chapter 26.800.

**PERSON** A natural person, heirs, executors, administrators, or assigns and also includes a firm, partnership or corporation, its or their successors, or assigns, or the agent of any of the aforesaid, and the State or any political subdivision, agency, board or bureau of the State.

**PLAT** Includes a final map, diagram, drawing, replat, or other writing containing all descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or partitioning and complying with the provisions of ORS 92 and 209.

**PROPERTY LINE ADJUSTMENT** The **relocation or elimination** ~~adjustment~~ of a common property line between ~~two or more parcels~~ **abutting properties** that does not create an additional parcel.

**SHALL** The term "shall" means mandatory.

**STREET OR ROAD** A public or private way that is or has been created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes. The term "street" shall include thoroughfare as defined herein.

(a) **ARTERIAL**

**Principal Arterial**

- Continuous segments with trip length and travel density indicative of statewide or interstate travel; and
- Serve all of the large urban areas and most of the moderate sized cities.

**Arterial**

- Link cities, larger towns, and other major traffic generators; and provide interstate and inter-county service; and
- Spaced such that all developed areas of the region are within reasonable distance of an arterial; and
- Serve a higher travel density, trip length, and overall travel speed than collector and local systems.

(b) **COLLECTOR**

Major Collector

- Provide service to larger towns not directly served by higher classed roads and to other traffic generators of equivalent intra-county importance (including parks, tourist attractions, significant resource areas, etc.); and
- Link these places with nearby towns and cities, or routes of higher classification; and
- Serve the more important intra-county travel corridors.

Minor Collector

- Spaced at intervals to collect traffic from local roads and bring all developed areas within a reasonable distance of a collector road; and
- Provide service to any remaining smaller communities and traffic generators; and
- Link locally important traffic generators with their local constituents.

(c) **CUL-DE-SAC** A dead-end road or street with vehicular turnaround at or near the dead end.

(d) **DEAD-END STREET** The same as cul-de-sac with no turnaround at the dead end.

(e) **HALF STREET** A portion of the ultimate width of a road or street where the remaining portion of the road or street shall be provided at a future date.

(f) **LOCAL**

- Primarily provide access to adjacent lands; and
- Provide relatively short travel distances compared to higher classed facilities.

**SUBDIVIDER** Any person who undertakes the subdivision of land.

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

**SUBDIVISION** Means either an act of subdividing land or an area of tract of land subdivided as defined in this section. The term subdivision shall include planned developments as defined herein.

**THOROUGHFARE** Any vehicular way through the planned development or any vehicular way within the planned development.

(a) Minor thoroughfares are to serve specific property only, not the general traffic circulation in the area, and need to be constructed only wide enough to adequately perform this function. Minor thoroughfares include "T" turnarounds, cul-de-sacs, circles, loops, and those "L" shaped streets not functioning as a through thoroughfare.

- (b) Major thoroughfares are publicly owned streets permitting traffic to move in one side of the planned development and out of another.

**UTILITY FACILITIES OVERHEAD** All utility poles, overhead wires, and associated overhead facilities with the exception of:

- (a) Antennae, associated equipment, and supporting structures used by a utility for furnishing communication services.
- (b) Equipment appurtenant to underground facilities such as surface-mounted transformers and switchgear, pedestal-mounted terminal boxes, meter cabinets, concealed ducts, and municipal fire alarms, street lights, traffic control signals and poles used exclusively for such services as are served from an underground source of supply.
- (c) Temporary poles, overhead wires, and associated overhead facilities used in conjunction with construction projects.
- (d) High-capacity electric and communication feeder lines and utility transmission lines operating at 50,000 volts or more.

**33.18 DEDICATION OR DEEDING OF RIGHT-OF-WAY ROADWAY** No person shall dedicate for public use, or deed to Marion County, a parcel of land that is used or proposed to be used as ~~a roadway~~ **access** without first obtaining the approval of the Board **or its designee** and delivering the deed to the Board for its endorsement. No dedication is effective unless the property is accepted by the Board **or its designee** and recorded with the Marion County Clerk's Office.

**33.26 DEDICATION OF RIGHT-OF-WAY** If land to be subdivided or partitioned will cause the termination of ~~a roadway or borders a roadway~~ right-of-way of less than standard width, the applicant shall dedicate sufficient land to provide for a cul-de-sac or to increase the half (or halves) of right-of-way bordering the subject parcel to one-half of the standard width. Unless otherwise specified for an individual street in the Zoning Ordinance, standard right-of-way widths are subject to the standards of the Marion County Department of Public Works.

**33.76 DECISION ON APPEAL** The Hearings Officer or Board shall render a decision on the appeal in accordance with the provisions of this Chapter, after the conclusion of the hearing. Notice of the decision shall be provided to the applicants, appellant, and others requesting notice in writing.

The decision of the Hearings Officer may be appealed to the Board no later than ~~15~~ **12**-days after the decision is rendered. The Board may sustain the decision or decide the appeal with or without a further public hearing. If a public hearing is held it shall conform with Chapter 45 of the Marion County Urban Zoning Ordinance. If the Board exercises its authority pursuant to Chapter 45.02 of the Marion County Urban Zoning Ordinance, its decision is final and appealable only to the Oregon Land Use Board of Appeals.

**33.80 SUBDIVISION PRE-APPLICATION CONFERENCE** Prior to the actual filing of a subdivision application ~~it is recommended that~~ the subdivider **shall** contact the staff **and schedule** for a pre-application conference. **Materials, maps, etc. required for the pre-application conference shall be submitted at least seven days prior to the date of the conference.** The meeting will enable the staff to review the proposal and determine if the subdivision is consistent with the intent of the Marion County Urban Zoning Ordinance and the Comprehensive Plan and whether public services are required and available.

**CHAPTER 35  
GENERAL ADMINISTRATIVE PROVISIONS**

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**35.01 TITLE.** This ordinance and any amendments thereto, shall be known and may be cited as the Marion County Urban Zoning Ordinance.

**35.02 AUTHORITY.** This ordinance is enacted pursuant to the authority granted to Marion County in Oregon Revised Statutes Chapters 197, 203, and 215.

**35.03 INTENT AND PURPOSE.** It is the intent and purpose of this zoning ordinance:

- (a) To provide land use regulations that implement and conform to the comprehensive plans of cities, adopted by the County, as they apply to unincorporated area within the cities' urban growth boundaries; and
- (b) To promote and protect the public health, safety, and general welfare.

**35.04 ADMINISTRATION.** This ordinance shall be administered by Marion County and its designated Zoning Administrator.

**The Zoning Administrator or designee shall handle all matters pertaining to comprehensive plan amendments, adjustments, administrative reviews, property line adjustments, partitions, subdivisions, zone changes, and conditional uses, and other administrative matters as prescribed by this ordinance; and such other matters as directed by the Planning Commission, Hearings Officer, or Board.**

**Any provision in any plat requiring that the Board or the Planning Commission approve any future land uses or divisions shall be satisfied if the proposed land use or division is reviewed and approved by the Hearings Officer, Zoning Administrator or designee in accordance with the other provisions of this ordinance.**

**35.05 APPLICATION.** The regulations set forth in this Zoning Ordinance are intended and shall be construed as minimum regulations, and shall apply uniformly to each class or kind of use, structure or land unless varied or otherwise conditioned as provided in this Zoning Ordinance.

**35.06 CONFORMANCE REQUIREMENT.** The Zoning Administrator or designee shall, prior to issuing any permit pertaining to the use of land or structures, or the erection or alteration of any structure, ascertain that the proposed use or construction shall in all ways conform to the requirements set forth in this ordinance.

No permit for the use of land or structures or for the alteration or construction of any structure shall be issued and no land use approval shall be granted if the land for which the permit or approval is sought is being used in violation of any condition of approval of any land use action, or is being used or has been divided in violation of the provisions of this ordinance unless issuance of the permit would correct the violation.

All land uses shall be conducted in full compliance with any other county ordinance, code or requirement of state Law. Failure to conform to other applicable laws shall be grounds for revocation of the permit.

~~determine that the existing or proposed use of land or structures conforms to the requirements set forth in this ordinance prior to authorizing issuance of any permits or allowing development or uses on land.~~

**35.07 FALSE OR MISLEADING INFORMATION/PERMIT REVOCATION.** The Zoning Administrator or the Hearings Officer may deny any land use application if it is determined that the application includes any false or misleading information. Before a decision granting an application becomes final, any land use permit granted pursuant to Marion County Urban Zoning Ordinance may be reconsidered by the Zoning Administrator or Hearings Officer and may be denied if it is determined that the application included any false or misleading information.

Any land use permit granted pursuant to Marion County Urban Zoning Ordinance shall be subject to revocation by the Zoning Administrator if the Zoning Administrator determines that the application for the permit included any false or misleading information, if the conditions of approval have not been complied with or are not being maintained, or if the land use is not being conducted in full compliance with the requirements of local, state and federal laws.

The Zoning Administrator's decision revoking a land use permit may be appealed to the Hearings Officer, who shall hold a public hearing in order for the permit holder to show cause why the permit should not be revoked. No hearing may be held without a minimum 15 days notice to the permit holder.

If the Hearings Officer finds that the conditions of permit approval have not been complied with or are not being maintained, or that the land use is not being conducted in compliance with applicable laws, the Hearings Officer may grant a reasonable time for compliance. If corrections are not made within that time, the permit shall be revoked effective immediately upon expiration of the time specified. The Hearings Officer's decision may be appealed to the Board as provided in MCUZO section 44.30.

**35.08 MINIMUM REQUIREMENTS.** In interpreting and applying this ordinance, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare and shall apply uniformly to each class or kind of structure or land.

**35.09 EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES.** It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, previously adopted, relating to the use of buildings or premises, or relating to the erection, construction, establishment, alteration, or enlargement of any buildings or

**improvements; nor is it intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this ordinance imposes a greater restriction upon the erection, construction, establishment, alteration, or enlargement of buildings, structures, or improvements, or the use of any such structures or premises in said several zones or districts, or any of them, than is imposed or required by such existing provisions of this ordinance shall control, except that the precedence of this ordinance shall not apply to valid and unexpired permits previously granted under the terms and provisions of any ordinance.**

**35.10 APPLICATION TO PUBLIC LANDS.** The requirements of this ordinance apply to all publicly owned lands. The following special provisions apply to lands owned or leased by the State of Oregon, or Marion County dedicated to park or airport use.

- (a) Park or airport maintenance including rehabilitation, replacements, minor improvements, repair, and similar maintenance activities are not subject to the zoning approval requirements of this ordinance.
- (b) Major improvements and development of new facilities specifically identified in State of Oregon Park or Airport master plans or in County Park or Airport master plans are not subject to zoning approval unless a floodplain or greenway development permit is required, provided the major improvement or new facility is consistent with the facility location, type and size identified in the Park or Airport Master Plan. To qualify under this provision the master plan must be approved as a Conditional Use, or have been approved by Board order prior to the effective date of this ordinance.

**35.20 INTERPRETATIONS.** The Zoning Administrator is authorized to interpret the meaning and applicability of the provisions of this ordinance on the basis of the text, maps and written interpretations issued by Legal Counsel. The Board or Zoning Administrator may request interpretations by Legal Counsel. Interpretations shall be in writing and the zoning administrator shall maintain a file of interpretations issued by the Zoning Administrator and Legal Counsel.

**35.21 RULES FOR INTERPRETATION OF ZONE AND PLAN MAP BOUNDARIES.** Where uncertainty exists as to the boundaries of zones as shown on the official zoning map or Plan designations shown on the Comprehensive Plan Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerline or the right-of-way boundary of streets, highways, or alleys shall be construed to follow such centerline or outside boundary.
- (b) Boundaries indicated as approximately following lot **or property** lines shall be construed as following such lot lines.
- (c) Boundaries indicated as within the right-of-way of a railroad shall be construed to be the centerline of the right-of-way.
- (d) Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the centerline of the main channel.
- (e) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (d) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined with reference to the scale of the map.
- (f) In all cases where a Plan map designation or zoning action was made with reference to a specific property description, that description shall establish the boundary; and where two or more property descriptions would apparently establish conflicting boundaries, the most recent action shall control.

- (g) Where features existing on the ground are at variance with those shown on the official Plan or zoning map, or in other circumstances not covered by subsections (a) through (e) of this section, the Zoning Administrator shall refer the matter to Legal Counsel for its interpretation.

**35.22 INTERPRETATION OF USES.** The following rules shall apply in interpreting use classifications and descriptions:

- (a) Within each zone, uses are classified as "permitted," and "conditional." Further, uses are functionally classified by description of the particular activity (such as "single family residence"), or by reference to a category in the "Standard Industrial Classification Manual, 1987 (SIC)." The SIC is an aid to interpretations. Where the term used to describe a permitted or conditional use is defined in Chapter 49 the definition takes precedence over any SIC classification.
- (b) When uses have a functional SIC classification the applicable SIC index number assigned to the manual is referenced as an aid to interpretation.
- (c) Where a use is not described with reference to the SIC manual or defined in Chapter 49, the words describing such use are to be given their ordinarily accepted meaning. The descriptions and lists of included activities in the SIC classifications may be used to interpret which use classification is appropriate for a particular use not specifically identified in the ordinance.
- (d) A use defined in Chapter 49 is also included within an SIC category, and it is the intent that the use defined in Chapter 49 be allowed in a zone where the SIC category including the defined use is referenced even though the use is not specifically referenced in the zone.
- (e) Use descriptions in the UT zone are intended to be consistent with use descriptions in ORS 215.283 unless the terms require a more limited interpretation.

**35.25 VIOLATIONS OF REGULATIONS UNLAWFUL; PROOF OF VIOLATION PRIMA FACIE EVIDENCE OF OWNER'S RESPONSIBILITY.** It shall be unlawful for any person to violate any provision of this ordinance, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under this ordinance. Proof of an unlawful act or failure to act shall be deemed prima facie evidence that the act is that of the owner. Prosecution or lack thereof of either the owner or the occupant shall not be deemed to relieve the other.

**35.27 ENFORCEMENT AND PENALTIES FOR VIOLATIONS.** Violations of this ordinance may be prosecuted and penalties assessed pursuant to Marion County Enforcement Ordinance.

**35.30 AMENDMENT OF ZONING ORDINANCE.** This ordinance may be amended by ordinance subject to the requirements in Chapter 38.

**35.40 ADOPTION OF ZONING MAP.** The zoning classifications of unincorporated lands within urban growth boundaries is hereby changed as identified in Exhibit A, which is made a part of this ordinance by this reference and represents the official zoning maps as provided in Section 1.40.

**CHAPTER 36  
APPLICATIONS**

Section	Title	Page
36.00	Applications, Generally	
36.01	Forms	
36.02	Filing	
36.03	Incomplete or Unauthorized Applications	
<del>31.04</del>	<del>Refunds</del>	
36.05	Consolidation	
<del>36.06</del>	<del>Misrepresentations</del>	
36.07	Required Signatures	
36.08	Application Contents	
36.09	Preliminary Processing of Applications	
36.12	Submittal of Supporting Evidence	

**36.00 APPLICATIONS, GENERALLY.** The provisions in this chapter apply to applications for Comprehensive Plan map amendments and zone changes that are not legislative amendments and applications for conditional uses, **property line adjustments, administrative reviews** and adjustments. It does not apply to determinations pursuant to Chapter ~~42.43~~ or interpretations pursuant to Section 35.20.

**36.01 FORMS.** The Zoning Administrator shall prepare and provide application forms. Application forms shall require the information specified in this chapter and any other information which the Zoning Administrator may require to analyze the proposed land use on its merits.

**36.02 FILING.** All applications shall be filed with the Planning Division on forms prescribed under this section, and shall be complete as to all factual information required to be stated on, or furnished with, the application. The application fee shall be paid at the time of the filing of the application. The fees for applications and appeals shall be as prescribed by Board order.

**36.03 INCOMPLETE OR UNAUTHORIZED APPLICATIONS.** The Zoning Administrator shall reject any incomplete application or an application not authorized by this ordinance within ~~15~~ **30** days of receipt. If the application is rejected the applicant shall be notified in writing of the reason for rejection.

~~**36.04 REFUNDS.** When an application is deemed to be incomplete, all but \$25.00 of the fee shall be refunded. If a new application is filed within 30 days from the date of rejection, the \$25.00 withheld from the original filing fee shall be applied to the fee for the refiled application.~~

**36.05 CONSOLIDATION.** When an application involves more than one type of application, the applications shall be consolidated, unless the applicant requests otherwise or the Zoning Administrator concludes that consolidation will create procedural difficulties.  
~~The total filing fee for a consolidated application shall be the larger of the individual fees, unless otherwise provided in the order establishing the fees.~~

~~**36.06 MISREPRESENTATIONS.** Inclusion of false or misleading information in an application shall be grounds to deny the application.~~

**36.07 REQUIRED SIGNATURES.** Applications shall include the following signatures:

- (a) Signatures of all owners of the subject property; or



- (b) The signatures of the purchasers of the property under a duly executed, recorded, written contract of sale; or
- (c) The signatures of lessee in possession of the property with the written consent of all the owners; or
- (d) The signatures of the agent of those identified in (a), (b) or (c) when authorized in writing by those with the interests described in (b) or (c), and all the owners of the property; or
- (e) The signature of an authorized agent of a public agency or utility holding an easement or other right that entitles the applicant to conduct the proposed use on the subject property without the approval of the property owners; and
- (f) The signature of the applicant and the applicants' address and phone number.

**36.08 APPLICATION CONTENTS.** A complete application shall include the following:

- (a) The signatures required in Section 36.07.
- (b) The names and addresses of mortgagees or contract sellers of the subject property.
- (c) The address of the subject property.
- (d) A copy of the latest transfer document.
- ~~(e) A copy of the current Assessor's map of the subject property with the notification area and subject property clearly identified thereon.~~
- ~~(f) The notification list (see Section 49.184).~~
- (e) The application fee.
- (f) A plot plan, drawn to scale, that shows the boundaries of the property, location and general configuration of existing and proposed structures and other improvements proposed as part of the application.
- (g) A written explanation of the proposal and how it conforms to the applicable criteria.
- (h) Such other information deemed necessary by the Zoning Administrator and requested on the application form.

**36.09 PRELIMINARY PROCESSING OF APPLICATIONS.** When the application is submitted the Zoning Administrator shall:

- (a) Establish a file and assign a case number.
- (b) Review the application and decide if it is complete pursuant to Section 36.08.
- (c) Request comments from affected agencies.

**36.12 SUBMITTAL OF SUPPORTING EVIDENCE.** The applicant has the burden of persuasion by a preponderance of the evidence. To meet this burden the applicant must, in addition to filing a complete application, provide evidence that the application satisfies the applicable criteria.

- ~~(b) The applicant shall submit to the Zoning Administrator all documents and evidence in support of the application at least 20 days before the date of a hearing scheduled before the Hearings Officer or Board, provided if a hearing on an application has been held by the Hearings Officer new evidence for Board consideration at a subsequent hearing shall be submitted 10 days before the date of the Board hearing.~~

**CHAPTER 37**  
**APPLICATION REVIEW PROCEDURES**

Section	Title	Page
37.00	Authority to Decide	
37.01	Board Authority	
37.02	Hearings, Notices, and Staff Reports	
37.03	Zoning Administrator Decisions	
37.04	Reconsideration of Zoning Administrator's Decision	
37.05	Reconsideration Review	
37.06	Limit on Reconsideration	
37.07	Final Decision	
37.08	Appeal of Zoning Administrator's Decision	
37.09	Conflicting Requests	
37.10	Notice of Appeal Hearings	

**37.00 AUTHORITY TO DECIDE.** Except as provided in Section 37.01, the Zoning Administrator is authorized to make the initial decision on applications for conditional use permits, partitions, property line adjustments, determinations, administrative reviews and adjustments. The Zoning Administrator is authorized to forward any application to the Hearings Officer for the initial decision, at the Zoning Administrator's discretion. The Hearings Officer is authorized to make the initial decision on zone change applications (Chapter 39), and applications for non-legislative amendment to the comprehensive plan (Chapter 43). The requirements in this chapter shall govern the review of these applications.

**37.01 BOARD AUTHORITY.** The governing body may at any time, on its own motion, call-up any application and make the decision. In those cases where the Board exercises its authority to make the decision on any application, that decision is final and appealable only as provided by Oregon law as an appeal from the final decision of the governing body. The Board has sole authority to decide legislative amendments to this Zoning Ordinance (Section 38.00) and legislative amendments to the comprehensive plan (Section 43.00 (b)).

**37.02 HEARINGS, NOTICES, AND STAFF REPORTS.**

- (a) If the Hearings Officer makes the initial decision the Zoning Administrator shall set the matter for public hearing, provide notice as required in Chapter 44, and submit a written report.
- (b) If the application is called up by the Board, or if the Board chooses to hear an appeal, the Board shall schedule the hearing and the Zoning Administrator shall provide notice as required in chapter 44. In the instance of a Board call up a written report shall be prepared.
- (c) The initial staff report on an application being heard by the Hearings Officer or the Board shall be available to the public at least seven days prior to the hearing date.
- (d) If the application was first decided by the Zoning Administrator the decision, including written findings, shall be considered the initial staff report. The Zoning Administrator may submit supplemental reports prior to or at a hearing before the Hearings Officer or Board.

**37.03 ZONING ADMINISTRATOR DECISIONS.** When the initial decision is made by the Zoning Administrator, the Zoning Administrator shall:

- (a) Prepare a written decision based on the information in the file, including the findings and conclusions in support of the decision.
- (b) Provide notice of the decision approving or denying the application to the applicant, the owners, contract sellers and mortgage holders of the subject property identified in the application, agencies indicating substantial concerns in comments **and requesting a copy**, and anyone entitled to notice by state law except as provided in (c).
- (c) Provide notice to those on the notification list. ~~if the application is approved.~~
- ~~(d) The following statement shall be placed on the front of envelopes used to mail the notice of decision required in (b) and (c): NOTICE OF DECISION AFFECTING YOUR PROPERTY.~~

**37.04 RECONSIDERATION OF ZONING ADMINISTRATOR'S DECISION.**

- (a) The applicant may file a request for reconsideration of a decision made pursuant to Section 37.03 with the Planning Division within ~~40~~ **15** days of the date the notice of decision is mailed. The request must be in writing and must explain wherein the decision is:
  - (1) Factually or legally incorrect; or
  - (2) State new facts material to the decision that were not available to the Zoning Administrator; or**
  - (3) Propose modifications that will better conform the proposal to the requirements of the ordinance.
- (b) The request for reconsideration shall include a signed extension of the 120 day time limit in ORS 215.427.**
- (c) The Zoning Administrator may withdraw a decision during the appeal period **and issue a new or modified decision** provided notice of the withdrawal **and subsequent decision** is mailed to those who received notice of the **original** decision.

**37.08 APPEAL OF ZONING ADMINISTRATOR'S DECISION.** An appeal may be filed with the Planning Division within ~~40~~ **15** days of the date the notice of decision is mailed or within ~~40~~ **15** days of the date the Zoning Administrator issues a notice of decision in a reconsideration. The appeal must be in writing. Legal Counsel may appeal the Zoning Administrator's decision.

**37.09 CONFLICTING REQUESTS.** When a request for reconsideration and an appeal are received within the ~~40~~ **15** day appeal period the appeal shall take precedence and the Zoning Administrator shall schedule a public hearing as provided in Section 37.10.

**CHAPTER 38**  
**LEGISLATIVE AMENDMENTS**

Section	Title	Page
38.00	Definitions	
38.01	Initiation	
38.02	Hearings Required	
38.02	Planning Commission Review	
38.04	Hearing Notice and Procedures	
38.05	Criteria for Legislative Amendments	
38.06	Recommendation	
38.07	Request for Second Hearing	
38.08	Board Action	
38.09	Findings	

**38.00 DEFINITION.** Any amendment of this zoning ordinance that deletes, supplements, or changes the text hereof, or involves ~~5-~~ six or more different ownerships or ~~more than 15 acres,~~ lots in separate ownership, is a legislative amendment.

**38.01 INITIATION.** Legislative amendments may be initiated by the Board or Planning Commission by resolution. An interested party may request that the Planning Commission or Board initiate a legislative amendment. Legislative amendments shall only be initiated by the Board or Planning Commission when the proposed change is in the public interest and will be of general public benefit. If the Board initiates the amendments the resolution shall prescribe whether the Hearings Officer, Planning Commission or Board shall conduct the hearing. If the Planning Commission initiates the amendments the resolution shall prescribe whether the Hearings Officer or Planning Commission shall conduct the hearing.

**38.02 HEARINGS REQUIRED.** Upon adoption of a resolution initiating a legislative amendment the Zoning Administrator shall schedule a public hearing before the designated body and provide notice as required by law. The Zoning Administrator shall submit a report on the proposal at the hearing. Prior to approval of any amendment that deletes, supplements or changes the text of this Ordinance, the Board shall hold a hearing in addition to any hearing held by the Hearings Officer or Planning Commission.

**38.03 PLANNING COMMISSION REVIEW.** Whenever a legislative amendment is initiated by the Board, the resolution ~~shall~~ may be referred to the Planning Commission. If the Planning Commission is not designated to hold the required public hearing it ~~shall~~ may forward a recommendation or report of its deliberations to the hearing body before the close of the public hearing.

**38.04 HEARING NOTICE AND PROCEDURES.**

- (a) Except as provided in (b), written notice shall be provided in accordance with the requirements of Chapter 44. Mailed notice shall not be required for subsequent hearings on the same proposal. Notice of the initial hearing shall be provided to the State Department of Land Conservation and Development, to the Chairman of the Area Advisory Committees, recognized neighborhood associations, and to any person who requests, in writing, notice of the initial hearing.
- (b) If more than 50 ownerships are involved the Zoning Administrator may substitute posted and published notice for mailed notice. The notice shall be posted along the nearest public road at the boundaries of the affected area. The notice shall be visible from the public road, indicate "notice of public hearing on

proposed land use change" and provide a phone number where information on the proposal can be obtained.

(c) **Notice of Legislative Text Amendments shall be consistent with the requirement of Measure 56, if applicable.**

(ed) Notice shall be published in a newspaper of general circulation in the affected area once at least ~~10~~ **12** days prior to the date of the hearing. The notice shall provide information prescribed for mailed notice in Chapter 44.

(de) A signed certification of notice describing the types of notice, the date notice was provided, a copy of any mailing list, and other information that demonstrates that the notification requirements have been met, shall be placed in the record of the initial hearing.

**38.05 CRITERIA FOR LEGISLATIVE TEXT AMENDMENTS.** The criteria in Section 39.05 shall be used to decide legislative zone changes. The following criteria shall be used to review and decide legislative amendments to the text of this ordinance.

(a) Compliance with the statewide land use goals and related administrative rules is demonstrated.

(b) Conformance with the Comprehensive Plan goals, policies, and intent is demonstrated.

(c) The proposed change is in the public interest and will be of general public benefit.

**38.06 RECOMMENDATION.** When the Hearings Officer or Planning Commission holds a hearing the Hearings Officer or Planning Commission shall prepare a report setting forth findings of fact, conclusions and a recommendation. The written report shall be presented to the Board, and mailed to those testifying at the hearing and those requesting notice. The Hearings Officer's or Planning Commission's recommendation shall be scheduled for consideration at a regular Board meeting occurring more than 10 days after the date the Board receives the recommendation.

**38.07 REQUEST FOR SECOND HEARING.** A request that the Board hold a hearing before taking action on the Hearings Officer's or Planning Commission's recommendation shall be submitted within ~~10~~ **15** days of notice of recommendation. The request should explain why the record established at the previous hearings is not an adequate basis for making the decision, or why the recommendation does not conform to the applicable criteria.

**CHAPTER 39  
ZONE CHANGES**

Section	Title	Page
39.00	Initiation of Zone Changes	
39.01	Authority to Decide	
39.02	Board Authority	
39.03	Review Procedures	
39.04	Hearings Officer's Decision	
39.05	Criteria	
39.06	Conditional Zone Changes	
39.07	Limits on Conditions	
39.08	Adjustments to Development Requirements	

**39.00 INITIATION OF ZONE CHANGES.**

- (a) Any amendment of the official zoning map involving 4- **five** or less different ownerships ~~and 15 or fewer acres~~, and which does not include any amendment to the text of the ordinance, is a zone change application. A zone change may be initiated in the manner provided for applications in Chapter 36.
- (b) Zone changes may also be initiated by resolution of the Board or Planning Commission when the change is for some governmental purpose or in order to bring the zoning ordinance and zone map into compliance with the Comprehensive Plan **or state law**.

**39.05 CRITERIA.** Approval of a zone change ~~application or initiated zone change~~ shall include findings that the change meets the following criteria:

- (a) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
- (b) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.
- (~~dc~~) The **request shall be consistent with** ~~criteria listed in the purpose statement for the proposed zone. shall be met (see Chapters 2 through 23).~~
- (~~ed~~) If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the proposed zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.

**39.06 CONDITIONAL ZONE CHANGES.**

- (a) **Authority.** The Board or Hearings Officer shall have authority to include conditions in the decision on a zone change ~~application~~. Conditions shall be limited to those matters identified in Subsection (b) found to be necessary and in the public interest.
- (b) **Matters that may be conditioned:**
  - (1) Size, height, and location of buildings and accessory structures;

- (2) Landscaping when necessary to provide screening from incompatible adjacent uses or from public right-of-way;
- (3) Retention of existing trees and vegetation for buffering purposes;
- (4) Size, location, screening, drainage, and surfacing of driveways, parking and loading areas, and street access;
- (5) Size, height, location and illumination of signs;
- (6) Size, height, location, and materials for the construction of fences to screen the subject property from incompatible adjacent uses or from public right-of-way.
- (7) Location and intensity of outdoor lighting;
- (8) Hours of operation or conduct of particular activities;
- (9) Abatement, mitigation, or prevention of nuisances.
- (10) Availability and improvement of urban services, including street improvements, dedication of street right-of-way, traffic signs and signals, sewer, storm drainage, water, and turn-outs and shelters for mass transportation; provided the condition applies only to the subject property or public right-of-way or easements abutting the subject property.
- (11) Funds for provision, or improvement of, traffic signs, signals and turn lanes at the first intersection(s) of the street(s) abutting the subject property with a collector or arterial street. The amount of funds shall be based on a current estimate of costs of the needed improvements and the share of traffic to be added to the intersection by the uses in the proposed zone that generates the greatest traffic impact.
- (12) Conditions may require that all or part of the development or use be deferred until the happening of certain events such as the availability to the subject property of a certain level of service.
- (13) Conditions may require that requirements imposed under this section be filed in the deed records of Marion County.

**39.07 LIMITS ON CONDITIONS.** The following limits and requirements apply to conditions imposed pursuant to Section 39.06.

- (a) Conditions shall be stated with specificity; shall be reasonably related to the public health, safety, and welfare; and shall be designed to reasonably effectuate their intended purpose.
- (b) Conditions that would have the effect of limiting use of the subject property to one particular owner, tenant, or business shall not be imposed. Conditions shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.
- (c) The provisions of Chapter 47 of this Ordinance shall apply to conditions imposed on a zone change.

- (d) If the dedication of street right-of-way or street improvements are required as provided in Section 39.06 (b) (10) and (11), provision of dedication, improvements or funding shall be deferred until a building permit or certificate of occupancy is required **or prior to the use being established.**

**39.08 ADJUSTMENTS TO DEVELOPMENT REQUIREMENTS.** The zone change decision may expressly authorize **an adjustment** ~~a variance~~ from the applicable development requirements of this Zoning Ordinance, regardless of whether an application was filed for such **adjustment** ~~variance~~, provided each of the following conditions is met:

- (a) The granting of the adjustment meets the criteria set forth in Chapter 41, except that the applicant shall bear no burden of proof as to such criteria;
- (b) The adjustment is required to accomplish a condition imposed as a part of the conditional zone change; and
- (c) The need for the adjustment was identified during the public hearing on the zone change.



**CHAPTER 40  
CONDITIONAL USES**

Section	Title	Page
40.00	Purpose for Review of Conditional Uses	
40.01	Authorization	
40.02	Conditional Use Criteria	
40.03	Authorization for Conditions	
40.04	Limits on Conditions	
40.05	Transfer of Conditional Use	
40.06	Structures and Accessory Uses Associated with Conditional Uses	

**40.04. LIMITS ON CONDITIONS.** The following limits and requirements apply to conditions imposed pursuant to Section 40.03:

- (a) Conditions shall be clear and objective; shall be reasonably related to the public health, safety, and welfare; and shall be designed to reasonably effectuate their intended purpose.
  
- (b) The provisions of Chapter 47 of this Ordinance shall apply to conditions imposed in a conditional use permit.
  
- (c) If the dedication of street right-of-way or street improvements are required as provided in Section 40.03 (j) or (k) provision of the dedication, improvements or funding shall be deferred until a building permit or certificate of occupancy is required **or prior to the use being established.**
  
- ~~(d) Conditions under Section 40.03 (j) shall not be imposed on expansions approved pursuant to Section 15.02 (a) if the expansion does not increase by more than 2500 square feet the total ground floor area of buildings and outdoor display and storage areas occupied by the use on the effective date of this ordinance.~~

**CHAPTER 41  
ADJUSTMENTS**

Section	Title	Page
41.01	Purpose	
41.02	Authorization and Procedures	
41.03	Minor-Adjustment Criteria	
41.04	Major-Adjustment Criteria	
41.04	Adjustment Conditions	
41.05	Transfer of Adjustments	

**41.01 PURPOSE.** A adjustment is intended to provide flexibility, adaptability, and reasonableness in the application and administration of development standards where special circumstances related to the land or buildings exist. Minimal Deviation from quantifiable standards is provided for in Section 41.03. ~~as a minor adjustment. Where the extent of deviation is more than minimal the~~ Any deviation must be carefully reviewed to ensure that criteria justifying the deviation are met, and to ensure that the extent and impact of deviation will be that minimum degree which is reasonably necessary to meet the special circumstances. ~~Major adjustments are provided for in Section 41.04.~~

**41.02 AUTHORIZATION AND PROCEDURES.**

- (a) An adjustment shall only be allowed to the development standards in the applicable zone or the requirements in Chapters 24 and ~~Chapters 26 through 34.~~
- (b) An adjustment may be approved if the procedures in Chapters 36 and 37 are followed and it is found that the criteria in Section 41.03 ~~or 41.04~~ are met.
- (c) No adjustment authorizing a use not otherwise permitted for the subject property shall be granted.
- ~~(d) Review and issuance of a decision on a minor adjustment application by the Zoning Administrator shall be completed within 21 days of submittal of a complete application.~~

**41.03 MINOR-ADJUSTMENT CRITERIA.** The development standards in the applicable zone and the development requirements in Chapter 24 and Chapters 26 to 34 protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for ~~minor~~ minimal adjustments to quantifiable requirements. The following criteria shall be used to review and decide applications for ~~minor~~ adjustments.

- (a) The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and
- ~~(b) The adjustment does not expand or reduce a quantifiable standard by more than 20 percent; and~~
- (b) The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and**
- (c) The adjustment is the minimum necessary to achieve the purpose of the adjustment and **is the minimum necessary to permit development of the property for the proposed use; and**

- (d) The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or, the proposed development maintains the intent and purpose of the provision to be adjusted.

~~41.04 **MAJOR ADJUSTMENT CRITERIA.** The following criteria shall be used to review and decide applications for major adjustments.~~

- ~~(a) The degree of adjustment from the standard is the minimum necessary to permit development of the property for the proposed use; and~~
- ~~(b) The adjustment will not have a significant adverse affect on property or improvements in the neighborhood of the subject property; and~~
- ~~(c) The adjustment will not have a significant adverse affect upon the health or safety of persons working or residing in the vicinity; and~~
- ~~(d) The adjustment will maintain the intent and purpose of the provision being varied.~~

~~41.04 **ADJUSTMENT CONDITIONS.** Such conditions as are deemed appropriate so that the criteria specified in section 41.03 or 41.04 will be most effectively met, may be imposed, and such conditions may be considered in making findings as to those criteria. The effective date or duration of an adjustment may be limited.~~

~~41.05 **TRANSFER OF ADJUSTMENT.** Unless otherwise provided in the final decision granting the adjustment, any adjustment granted pursuant to this chapter shall automatically transfer to any new owner or occupant subject to all conditions of approval.~~

**CHAPTER 42**  
**DETERMINATIONS AND ADMINISTRATIVE REVIEWS**

Section	Title	Page
42.01	Authorization	
42.02	Definition	
42.03	Applications	
42.04	Review Procedure	
42.05	Criteria for Making Determinations	
42.06	Scope of Determinations <b><u>and Administrative Reviews</u></b>	
42.07	Conditions Under Previous Ordinance	
42.08	Modification <b><u>or Withdrawal of Determinations and Administrative Reviews</u></b> of Determinations	
42.09	Expiration and Extensions	
42.10	Effect of Determinations on Zoning Ordinance Amendments	
<b><u>42.11</u></b>	<b><u>Administrative Review</u></b>	

**42.01 AUTHORIZATION.** The Zoning Administrator is authorized to issue determinations **or administrative reviews** regarding conformance of existing or proposed uses on a particular lot **or parcel** with the requirements of this ordinance, including determinations **or administrative reviews** relating to non-conforming uses as provided in Chapter 48, subject to the requirements of this Chapter.

**42.02 DEFINITIONS.**

A determination includes, but is not limited to, written information provided by the Zoning Administrator regarding the application of this ordinance to a specific lot **or parcel** such as an indication of conformance with applicable provisions of this ordinance in official correspondence or on a state agency permit, building permit, mobile home siting permit, occupancy permit, or similar document (see Chapter 30 **35** for procedures for clarifying the applicability of this ordinance under general circumstances). Oral information is not a determination and cannot be considered the basis for any act in violation of this ordinance.

**An administrative review is a written determination that requires an interpretation or the exercise of factual, policy, or legal judgment and is considered a land use decision and is issued as a land use permit.**

**42.03 REQUESTS FOR A DETERMINATION.** The following procedures shall apply to requests for written determinations not associated with a ~~State agency permit~~, building permit, mobile home siting permit, occupancy permit or similar action.

- (a) Any interested person may request a written determination.
- (b) The request shall identify the name, address and phone number of the applicant, and the owner and address of the property.
- (c) Requests shall include a copy of the latest property transfer document. ~~A copy of the Assessor's map identifying the property in question shall be included if the determination will address the legality of the subject lot.~~
- (d) The request shall also include a written explanation of the specific issues to be determined.

**42.05 STANDARDS FOR MAKING DETERMINATIONS.** A determination of conformance with this ordinance shall be made if the Zoning Administrator finds compliance with the requirements of the applicable zone or overlay zone, the regulations pertaining to non-conforming uses in Chapter 48, the general development regulations in Chapters **24 and** 26 through 34, and the definitional limits in Chapter 49. In addition, the Zoning

Administrator shall not make a determination of conformance with this Ordinance unless the provisions of this Chapter have been met.

**42.06 SCOPE OF DETERMINATIONS AND ADMINISTRATIVE REVIEWS.**

- (a) For requests submitted pursuant to Section 42.03 **or 42.11** the Zoning Administrator shall determine from available records whether the subject lot **or parcel** and existing uses were established in conformance with applicable County regulations, or shall clearly indicate the limited scope of the determination **or administrative review**.
- ~~(b) When the Zoning Administrator signs a land use compatibility statement on a State agency permit, or indicates zoning conformance on a building permit, or takes similar action, the determination is limited to a finding of conformance with the applicable provisions of this ordinance.~~
- (b) If a determination cannot be made without interpretation or the exercise of factual, policy or legal judgment the Zoning Administrator shall deny the request. Where a determination with regard to a proposed use, ~~or structure~~ **or the legality of a parcel** cannot be made without interpretation or the exercise of factual, policy or legal judgment the proposed use, ~~or structure,~~ **or the legality of a parcel** may be **reviewed** approved as a conditional use **an administrative review** subject to submittal of an application as provided in **Section 42.11** Chapter 40.

**42.07 CONDITIONS UNDER PREVIOUS ORDINANCE.**

- (a) If under previous ordinances conditions were imposed as part of a zone change or a resolution of intent to rezone that have not been met, or require continuing compliance, any determination **or administrative review** for the subject property shall identify the conditions and note that they remain in effect.
- (b) If a conditional use permit was granted under previous ordinances and the conditions imposed have not been met, or require continuing compliance, a determination **or administrative review** for the subject property shall identify the conditions and note that they remain in effect.

**42.08 MODIFICATION OR WITHDRAWAL OF DETERMINATIONS AND ADMINISTRATIVE REVIEWS.** Written determinations **or administrative reviews** may be modified or withdrawn prior to establishment of a use or occupancy of a structure if new information is received that demonstrates that the determination **or administrative review** was in error. Those provided with a copy of the original determination **or administrative review** shall be provided a copy of the modified determination, **or administrative review** or notice of the withdrawal.

**42.09 EXPIRATION AND EXTENSIONS.** A determination remains effective for one year provided that determinations made as part of a permit issuance shall remain effective as long as the permit remains effective. The Zoning Administrator may grant one-year extensions of the determination when requested in writing prior to the expiration date. **An administrative review runs with the land, unless a specific expiration date is identified in the decision or the decision is revoked.**

**42.10 EFFECT OF DETERMINATIONS AND ADMINISTRATIVE REVIEWS ON ZONING ORDINANCE AMENDMENTS.** Where a structure or use has been modified or established in reliance on a written determination **or administrative review**, and the applicable land use regulations change, the structure or use shall be subject to the provisions of Chapter 48 (Non-Conforming Uses).

**42.11 ADMINISTRATIVE REVIEW.** **When a determination about a proposed use, structure or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment the proposed use, structure, or the legality of a lot or parcel may be reviewed as a**

administrative review subject to submittal of an application as provided in Chapter 36. The administrative review procedures, as provided below, shall be followed in making these decisions.

- (a) The decision shall be made on the basis of the applicable city comprehensive plan and applicable standards and criteria in the Marion County Urban Zoning Ordinance. The Zoning Administrator or designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel or to the standards or criteria. Administrative Review applications may be filed and shall be signed as required in Chapter 36. Notwithstanding any other provisions of this ordinance, the Zoning Administrator or designee may forward any land use permit or application to the Planning Commission or Hearings Officer for a public hearing and initial decision.
- (b) Notice of a decision shall be sent to the applicant, the owner(s) of the subject property, the co-tenants if the subject property is owned by tenants in common, and all property owners within the notification area prescribed by Section 49.182 of this ordinance or as required by state law or administrative rule.
- (c) The applicant or any persons aggrieved or affected by the decision may file a request for a hearing to the County Planning Division within 15 days of the date the decision was rendered. The request must be in writing and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the Zoning Administrator or designee.
- (d) The applicant may file a request for reconsideration without a hearing to the Planning Division within 15 days of the date the decision was rendered. The request must be in writing and received in the Planning Division office prior to the decision being final, and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the Zoning Administrator, or propose modifications that will better conform the proposal to the requirements of the ordinance. The request for reconsideration shall include a signed 30-day waiver of the 120-day time limit in ORS 215.427.

Applicants shall be limited to one request for reconsideration per application. The Zoning Administrator shall reconsider the matter and provide notice to the person requesting reconsideration and as required in subsection (b) of this section.

The Board may call up any action of the Zoning Administrator, Planning Commission or Hearings Officer in granting or denying Administrative Reviews. This action of the Board shall be taken at the meeting where notice of the decision is presented. When the Board takes such action, the Zoning Administrator's, Planning Commission's or Hearings Officer's records pertaining to the Administrative Review in question shall be submitted to the Board by the Zoning Administrator or Hearings Officer. The call up shall stay all proceedings in the same manner as the filing of a notice of appeal.

- (e) When reconsideration has been requested, the decision is stayed until final action is taken.
- (f) On request for a hearing, the Hearings Officer shall hold a hearing on the matter in accordance with Chapter 44 of this ordinance.
- (g) Sections 44.30 and Chapter 45 of this ordinance shall apply to any appeals from the decision of the Hearings Officer.

**CHAPTER 43  
COMPREHENSIVE PLAN AMENDMENTS**

Section	Title	Page
43.00	Definitions	
43.01	Procedures for Legislative Plan Amendments	
43.02	Procedures for Non-Legislative Plan Amendments	

**43.00 DEFINITIONS.** A comprehensive plan amendment is any amendment to the Marion County Comprehensive Plan, and any city comprehensive plan applied outside of the respective city limits, which deletes, supplements, or changes the text, land use map designations, or urban growth boundaries or takes an exception to a statewide land use goal.

- (a) A non-legislative comprehensive plan amendment is a comprehensive plan amendment that only involves a change to the land use designation of ~~4~~ **five** or fewer different ownerships. ~~and 15 or fewer acres.~~
- (b) A legislative comprehensive plan amendment is all comprehensive plan amendments other than non-legislative amendments.

**43.01 PROCEDURES FOR LEGISLATIVE PLAN AMENDMENTS.** Procedures and criteria for legislative plan amendments shall be as provided in Chapter 38 for legislative zone amendments. In addition, applicable procedural requirements in an intergovernmental agreement regarding land use coordination between Marion County and the City, which adopted the applicable comprehensive plan, shall apply. All proposals to amend the Comprehensive Plan shall be forwarded to the Director of the Department of Land Conservation and Development prior to the first evidentiary hearing.

**43.02 PROCEDURES FOR NON-LEGISLATIVE PLAN AMENDMENTS.** Procedures for non-legislative plan amendments shall be as provided in Chapter 39 for Zone Changes. All proposals to amend the Comprehensive Plan shall be forwarded to the Director of the Department of Land Conservation and Development prior to the first evidentiary hearing. The criteria for non-legislative plan amendments are:

- (a) Conformance with the comprehensive plan goals, policies and intent, and any plan map amendment criteria in the plan, or intergovernmental planning coordination agreement, pertaining to unincorporated lands.
- (b) The addition of the subject property to the inventory of lands in the proposed map designation and the corresponding inventory reduction in the current designation are consistent with projected needs for such lands in the Comprehensive Plan.
- (c) Uses allowed in the proposed designation will not significantly adversely affect planned uses on adjacent lands.
- (d) Public facilities and services necessary to support uses allowed in the proposed designation are available or are likely to be available in the near future.

**CHAPTER 44**  
**PROCEDURES FOR HEARINGS BEFORE THE HEARINGS OFFICER**

Section	Title	Page
44.01	Procedure for Public Hearing	
44.02	Scheduling	
44.03	Hearing Notice	
44.10	Conduct of Hearings	
44.20	Decisions and Notice	
44.30	Appeals of Hearings Officer Decision	
44.40	Notice of Final Decisions	

**44.01 PROCEDURE FOR PUBLIC HEARING.** When a public hearing is required pursuant to Section 37.02 and Section 37.08 the procedures and notification requirements in this Chapter and state law shall apply.

**44.02 SCHEDULING.** Except as provided in Section 37.01, the Zoning Administrator shall schedule a hearing before the Hearings Officer. If the applicant requests a different hearing date the Zoning Administrator may reschedule the hearing. If the Hearings Officer requests a change in the hearing date the Zoning Administrator shall reschedule the hearing accordingly. If the applicant has requested the change, and the hearing date is later than would otherwise have been scheduled, the Zoning Administrator may make the rescheduling contingent on the applicant ~~waiving~~ **granting an extension of** any time limit for reaching a decision in state law. If, as a result of the applicant's request for a different hearing date, renotification is required, the applicant shall pay a renotification fee.

**44.03 HEARING NOTICE.**

- (a) Notice of a hearing shall be mailed by the Zoning Administrator to the applicant, owners, contract sellers and mortgage holders of the subject property identified in the application, those on the notification list, and to anyone entitled to notice under State law at least ~~10~~ **20** days prior to the date of the hearing. Failure of anyone to receive mailed notice shall not affect the validity of the proceedings.
- (b) The notice shall include:
  - (1) The date, time and location of the hearing;
  - (2) The nature of the application, and the proposed uses that could be authorized;
  - (3) The address or other easily understood geographical reference to the subject property;
  - (4) A list of the topical headings and numbers of the criteria from the applicable city comprehensive plan and this Ordinance that apply;
  - (5) A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the Hearings Officer an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;
  - (6) The name of the Zoning Administrator's staff to contact, and the telephone number where additional information may be obtained;



- (7) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost upon request;
- (8) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost upon request;
- (9) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- ~~(10) The following statement shall be placed on the front of the envelopes used to mail notice of hearings: NOTICE OF HEARING AFFECTING YOUR PROPERTY;~~
- (10) All documents or evidence relied upon by the applicant shall be submitted to the Zoning Administrator and be available to the public at the time notice of the hearing is provided.

#### **44.10 CONDUCT OF HEARINGS.**

- (a) The Board shall adopt procedures for the conduct of hearings before the Hearings Officer consistent with the requirements of this ordinance and state law.
- (b) At the commencement of a hearing a statement shall be made to those in attendance that: a) identifies the applicable substantive criteria, b) testimony and evidence must be directed toward the identified criteria or other criteria in the plan or this ordinance which the person believes to apply to the decision, and c) failure to raise an issue precludes appeal to the Land Use Board of Appeals based on that criterion.
- (c) The Hearings Officer may continue the hearing to a certain date, may close the hearing and keep the hearing record open to a certain date to allow submittal of written testimony, and may reopen the hearing record to admit new evidence or testimony.
- (d) If documents or evidence in support of the application are submitted after notice is provided any party ~~shall~~ **may** be entitled to a continuance of the hearing.
- (e) If the Hearings Officer has not granted a continuance, the record shall remain open for at least seven days for submittal of written testimony upon request of a participant before the close of the hearing.
- (f) If the Hearings Officer reopens the hearing record to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony, or criteria for decision-making that apply to the matter at issue.

#### **44.20 DECISIONS AND NOTICE.**

- (a) Following the close of the hearing the Hearings Officer shall issue a written order or recommendation. The order ~~and the file~~ shall be transmitted to the Board's office. **The file and a** copy of the order shall be transmitted to the Zoning Administrator.
- (b) Notice of the decision shall be mailed to the applicant, the applicant's representative, the owners of the subject property identified in the application, and those who testified at the hearing or requested notice in writing.
- (c) A decision by the Hearings Officer shall be effective ~~ten~~ **15** days from the date the order is mailed, unless appealed, called up by the Board, or further action is required pursuant to Section 39.04.

(d) ~~The following statement shall be placed on the front of envelopes used to mail the notice of decision required in (2): NOTICE OF DECISION AFFECTING YOUR PROPERTY.~~

**44.30 APPEALS OF HEARINGS OFFICER DECISION.**

- (a) An appeal shall be in writing and shall request that the Board hold a hearing on the application. The appeal must: ~~explain wherein the decision is:~~
- (1) **Explain wherein the decision is** factually or legally incorrect; or
  - (2) Present new facts material to the decision; or
  - (3) Propose modifications that will better conform the proposal to the requirements of the Ordinance.
- (b) The appeal shall be filed with the County Clerk within ~~10~~ **15** days of the mailing of the Hearings Officer's decision.
- (c) If an appeal of a Hearings Officer's decision is timely filed the decision shall not become effective and the appeal shall be scheduled for consideration by the Board.
- (d) The Zoning Administrator may appeal the decision of the Hearings Officer to the Board.

**44.40 NOTICE OF FINAL DECISION.** When the Clerk does not receive notice of appeal pursuant to Section 44.30 prior to the expiration of the appeal period the decision becomes final and the Zoning Administrator shall provide notice of the effective date of the Hearings Officer's decision to the applicant, owner of the property included in the application, and those requesting notice; provided, in the case of a Hearings Officer's decision approving a plan amendment or zone change where a Board hearing is not required, an ordinance shall be prepared for Board adoption. Upon adoption of the ordinance the Zoning Administrator shall provide the notice required in Section 45.04.3

**CHAPTER 45**  
**BOARD PROCEDURES**

Contents	Title	Page
45.01	Appeals	
45.02	Board Action on Appeals	
45.03	Hearings Procedures	
45.04	Board Decision and Notice	
45.05	Appeal of Board Decision	

**45.01 APPEALS.**

- (a) When the Clerk receives a notice of appeal pursuant to Section 44.30 or 43.09, the appeal ~~may~~ shall be placed on the agenda of a regular Board meeting following the expiration of the appeal period.
- (b) When an appeal is filed it shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until the Board makes a decision on the appeal.

**45.02 BOARD ACTION ON APPEALS.** The Board shall review appeals and the action of the Hearings Officer, and:

- (a) The Board may refer the matter back to the Hearings Officer for reconsideration on the hearing record or for rehearing; or
- (b) The Board may summarily, after considering the application and appeal and finding that the facts therein do not warrant further hearing, affirm the action of the Hearings Officer and deny the appeal; or
- (c) If the Board is of the opinion that the facts in the case warrant further consideration, the Board shall accept the appeal and set a hearing,

**45.03 HEARINGS PROCEDURES.**

- (a) When the Board has set a hearing pursuant to Section 37.01 or Section 45.02 (c) or when a hearing is required by state law, the Zoning Administrator shall provide notice as required in Section 44.03 (a) and (b) except the notice shall be mailed at least 20 days before the Board hearing if there was not a previous hearing before the Hearings Officer. Failure of anyone to receive mailed notice shall not affect the validity of the proceedings.
- (b) In the case of hearings set pursuant to Section 45.02 the Board may limit the scope of the hearing to those aspects of the application that warrant review.
- (c) The Board's consideration of applications and appeals for which a Board hearing is scheduled shall be de novo. All hearings shall be conducted in accordance with procedures adopted by the Board and the requirements of this ordinance and state law.
- ~~(d) All documents or evidence relied upon by the applicant shall be submitted to the Zoning Administrator and be available to the public at the time notice of the hearing is provided.~~
- ~~(d) The Board shall have the same authority as the Hearings Officer. , and shall meet the requirements regarding the conduct of hearings, in Section 44.10 (a), (b), (c), (d), and (e).~~

**45.04 BOARD DECISION AND NOTICE.**

- (a) After holding a hearing the Board may reverse, affirm, or modify a Hearings Officer's decision. After holding a hearing the Board may deny, approve, or modify applications called up pursuant to Section 37.01 or matters where a public hearing is required by state law.
- (b) The Board's decision shall be adopted by order in the case of a conditional use, **partition, property line adjustment, subdivision, administrative review,** adjustment, or a denial of a Plan map amendment or zone change application. Approval of a Plan map amendment or zone change shall be by ordinance.
- ~~(c) When the Board directs staff to prepare a zone change ordinance the proposed ordinance shall be available for review and comment by interested parties 5 days prior to the Board action. If any changes are made by staff as a result of comments the amended proposed ordinance shall be available for review and comment by interested parties 3 days prior to Board action.~~
- (c) Notice of the Board's decision shall be mailed to the applicant, the owners of the subject property identified in the application, those who request notice prior to the close of the final public hearing, those testifying at the Board hearing, and others entitled to notice by law.

**45.05 APPEAL OF BOARD DECISION.** A Board decision is final and may be appealed in such a manner and within such time as provided in State law.

**CHAPTER 46  
APPLICATION RIGHTS**

Contents	Title	Page
46.01	Resubmission of Application	
46.02	Effective Date	
46.03	Expiration of Rights Granted	
46.04	Extensions of Rights Granted	
46.05	Amendment of Conditions	

**46.01 RESUBMISSION OF APPLICATION.** If a Comprehensive Plan land use designation amendment, zone change, conditional use, ~~partition, variance,~~ **property line adjustment, administrative review** or adjustment application is denied on the merits, ~~this such~~ denial shall be a bar to refile the same or substantially similar application for a period of 12 months from the date of the final decision.

**46.02 EFFECTIVE DATE.** Decisions approving **or denying** applications shall become final at the close of business on the last day an appeal ~~of the decision,~~ or a request for reconsideration can be filed. The Zoning Administrator shall not authorize building permits or other permits requiring conformance with this ordinance, before the decision becomes effective.

**46.03 EXPIRATION OF RIGHTS GRANTED.** The following provisions apply to all decisions except those enacted by ordinance.

- (a) Rights granted by a decision approving an application, must be substantially exercised within two years unless a lesser period is specified in the conditions of approval, or unless the effective period is extended as provided in Section 46.04. If the rights granted are not substantially exercised during the effective period as provided in subsections (b), (c), or (d) the rights shall expire.
- (b) Where the exercise of rights under an approved application involves work for which a building permit is required, the rights granted shall expire if a building permit has not been issued prior to the expiration of the effective period. Where the approval refers to phased development the rights granted shall expire if building permits for the first phase are not issued prior to the expiration of the effective period; ~~provided, rights associated with subsequent phases expire if building permits for an additional phase are not issued every 2 years from the end of the original effective period.~~
- (c) If a building permit integral to the exercise of the rights granted has been issued, the rights granted shall be considered exercised. If the building permit expires, the rights granted shall be considered expired if less than 50% of the value of the authorized construction has been completed.
- (d) For the purpose of this section if the rights granted do not involve work for which a building permit is required, the rights granted shall be considered exercised when a substantial portion of the use benefited by the rights granted has been established. ~~An additional two years shall be allowed to establish the remaining use.~~

**46.04 EXTENSIONS OF RIGHTS GRANTED.**

- (a) The effective period of an approved application may be extended by the final decision maker **or designee the Zoning Administrator** for an additional **one year periods if:** subject to a determination that:

- (1) There have been no changes in land use law or Plan policy that would apply to the application if reapplication was required; and
  - (2) A written request for an extension is filed by the applicant or applicant's successor prior to the expiration of the approval; and
  - (3) The decision, if rendered after the adoption of this ordinance, included reference to the possibility of an extension, and the extension is consistent with any limits on extensions imposed in the original decision.
- (b) There shall be no limit on the number of extensions that may be requested and approved.
- (c) **Approval of an extension granted under this section is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision.**

**46.05 AMENDMENT OF CONDITIONS.** Excepting conditions adopted by ordinance, conditions imposed as part of approved applications may be amended as provided in this Section if the rights have not expired or terminated:

- (a) An application for amendment shall be submitted on the form supplied for new applications;
- (b) The request shall include the fee for amendments;
- (c) A new notification list shall be provided if the request is submitted more than 60 days after the original notification list was prepared;
- (d) A new file need not be established;
- (e) The amendment request shall be considered by the maker of the first decision.
- (f) Except as modified herein, the procedures in this ordinance for review of the original application shall apply.

**CHAPTER 47**  
**ADMINISTRATION OF CONDITIONS**

Contents	Title	Page
47.01	General Provisions	
47.02	Completion Before Occupancy	
47.03	Performance Agreements	
47.04	Limitations	
47.05	Performance Bonds	
47.06	Continuing Requirements	
47.07	Extensions	

**47.01 GENERAL PROVISIONS.** Conditions authorized by this ordinance for zone changes, **partitions, subdivisions, property line adjustments, administrative reviews**, variances, adjustments, and conditional uses are either conditions that must be satisfied before the exercise of the rights granted, or they are conditions that apply **continuously** during the exercise of the granted rights. Unless specified otherwise the provisions of this Chapter apply in administering conditions of approval.

**CHAPTER 48**  
**NONCONFORMING USE AND DEVELOPMENT**

Section	Title	Page
48.01	Effect on Other Regulations	
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48.12	Continuation and Expansion of Non-Conformity	
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48.20	Compliance with Former Regulations	
48.22	Repairs and Maintenance	
48.30	Unlawful Lots, <u>Parcels</u> , Uses, Structures and Development	
48.32	Use of Non-Conforming Lots <u>or Parcels</u>	
48.40	Effect of Zone Changes	

**48.12 CONTINUATION AND EXPANSION OF NON-CONFORMITY.** Except as provided in section 48.14 and ~~48.18.1-6~~, any lawfully established nonconforming use, structure or development may be continued as a lawful use, structure or development unless and until terminated as provided in section 48.10, subject to the following restrictions as to expansion, alteration, change, and replacement of the use, structures, or development:

- (a) A legal nonconforming use of a portion of a conforming or non-conforming building may be expanded into other portions of that building existing prior to this ordinance as provided in subsection (c).
- (b) A conforming or non-conforming building, structure, or vehicle occupied by a legal nonconforming use may be altered, enlarged or replaced for the benefit of such use as provided in subsection (c) of this section, provided that the alteration, enlargement or replacement is otherwise lawful under the development standards of this zoning ordinance and the provisions of all other applicable laws, ordinances, and regulations.
- (c) The nonconforming uses specified in this chapter are treated as conditional uses in the applicable zone. However, unlike conditional uses, they are not deemed permitted uses. Nonconforming uses may be expanded or changed to a use of the same or more restricted nature where such use is granted a conditional use permit. The procedures and criteria set forth in Chapters 37 and 40 shall apply. In addition, the applicant shall have the burden of showing that the alteration of the use or structure is necessary to comply with a lawful requirement or will not result in a greater adverse impact on the neighborhood. Granting of a conditional use allowing the alteration does not remove the non-conforming status of the use or structure.
- (d) An applicant may not be required to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of the application.**

**48.14 NONCONFORMING RESIDENTIAL USES IN COMMERCIAL AND INDUSTRIAL ZONES.**

- (a) Notwithstanding the provisions of Section 48.12, any legally established nonconforming residential use in any commercial or industrial zone may be continued unless and until terminated. Such uses may be expanded and their buildings structurally altered provided such expansion or structural alteration complies with all applicable development standards in this zoning ordinance, and with all applicable provisions, of other laws, ordinances and regulations. Changes of use from a nonconforming residential



use to a nonconforming non-residential use or another non-conforming residential use shall be allowed as provided in Section 48.12 (b) and (c).

- (b) Notwithstanding the provisions of this ordinance, any legally established nonconforming single family dwelling or mobile home in any commercial or industrial zone which is substantially damaged or destroyed by fire, or other casualty or natural disaster may be restored or replaced if it is determined: (1) the dwelling or mobile home meets the setback and height standards of the CO (Commercial Office) zone, or is no more non-conforming than the existing dwelling or mobile home; (2) there is only one dwelling or mobile home on the lot or parcel; (3) in the case of replacement, the dwelling or mobile home, if not placed on the same footprint, shall be located in such a manner that any significant unused portion of the property has adequate development options, and development options on adjacent properties are not significantly restricted. Consideration shall be given to the planned location of public facilities and services in siting a replacement dwelling or mobile home. A mobile home may be replaced only with a mobile home and the replacement mobile home meets the requirements in Section ~~26.903 (a)~~. **26.02 (a) 1 or 2 and 3.**

Application for restoration or replacement shall be commenced within 12 months of the occurrence of fire, casualty or natural disaster. After the 12 month period restoration or replacement may occur only if consistent with the provisions of the Marion County Urban Zoning Ordinance.

**48.18 NON-CONFORMING PERMITTED AND CONDITIONAL USES.** Any legally established use existing prior to this ordinance which is listed in this ordinance as a permitted or conditional use in the applicable zone, shall be a conforming use even though it does not conform to the requirements for such uses in this ordinance provided:

- (a) A conditional use permit shall be required for any use other than a single family dwelling or mobile home if the use is expanded or if primary structures or buildings occupied by the use are expanded.
- (b) Pre-existing uses and related structures and buildings conform to any condition imposed at the time the use was approved unless modified as part of a conditional use permit approved pursuant to the requirements of this ordinance.
- (c) Replacement of a mobile home in the UT, UD, and RS zones shall be with a mobile home that meets the requirements in Section 26.903 (a). Replacement of a mobile home in any other zone shall be with a mobile home that meets the requirements in Section **26.903 (a)**, ~~26.02 (a), (1), (2), and (3)~~.
- (d) Legally established structures accessory to a dwelling, mobile home, farm or forest use existing when the UT UFF zone in this ordinance is applied shall be considered in conformance with the UT UFF zone and may be repaired, altered, enlarged or replaced provided the alteration, enlargement, or replacement does not encroach into any vision clearance area or special street setbacks.

**48.30 UNLAWFUL LOTS, PARCELS, USES, STRUCTURES AND DEVELOPMENT.** Any lot, parcel use or structure existing prior to this ordinance which was established in violation of prior zoning ordinances or the Subdivision and Partition Ordinance then in effect, and which is unlawful under this ordinance, shall not be classified as a nonconforming lot, parcel use or structure by virtue of the repeal of any such prior ordinances, and such lot, parcel use or structure shall constitute a violation of this ordinance.

**48.32 USE OF NON-CONFORMING LOTS OR PARCELS.** Lots or parcels lawfully established prior to this ordinance may be used and developed as provided in this ordinance even though such lot or parcel does not conform to the requirements of this ordinance provided all other development standards are met.

**48.40 EFFECT OF ZONE CHANGES.** Wherever the zoning on any lot or parcel or portion thereof is changed, the provisions in this chapter shall apply to any use, structure or development made nonconforming by the zone change.

**CHAPTER 49  
DEFINITIONS**

Section	Title	Page
49.001	Definitions, Generally	
49.004 to 49.290	Specific Definitions, Listed Alphabetically	

**49.001 DEFINITIONS, GENERALLY.**

- (a) The meanings given terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.
- (b) Where a term used in this ordinance is already defined in another County ordinance (~~e.g., the Subdivision and Partitioning Ordinance and the Uniform Building Code~~) the term is not redefined herein unless it has a different meaning in this ordinance, or is so frequently used herein that the same definition is reproduced in this chapter for the reader's convenience. If a term elsewhere defined in County ordinance is not defined herein, it is intended that such terms have the same meaning in this ordinance as the definitions elsewhere adopted unless the context otherwise clearly requires.
- (c) Terms not defined in this ordinance, shall have their ordinary accepted meanings within the context in which they are used. **Webster's 3<sup>rd</sup> New International Dictionary of the English Language, Unabridged (ed 2002)** shall be considered a standard reference to ordinary accepted meanings.
- (d) For the purpose of this ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory, the word "building" includes structure.
- (e) Terms defined in other chapters of this ordinance apply only within the chapter where the term is defined.

**49.044 CHILD CARE FACILITY** Any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A. 250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

~~means any facility providing day treatment for disturbed children, adoption placement services, residential care, including but not limited to foster care or residential treatment for children, or similar services for children, but excluding child day care center and child foster homes as defined in this ordinance (see Nursing Care Facility).~~

~~**49.046 CHILD DAY CARE CENTER** means either: 1) a dwelling or mobile home, occupied by the provider of the service, located in a residential, UD, UT, or UTF zone, or 2) a building in a commercial, industrial or public zone, and 3) where care, supervision and guidance is provided on a regular basis for children less than 13 years of age, unaccompanied by a parent, guardian or custodian during a part of the day in a place other than the children's home, with or without compensation.~~

**49.048 CHILD DAY CARE HOME:**

(a) A child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 12 children at any one time; or

(b) A group child care home as used in OAR Chapter 657A.

means a dwelling or mobile home, occupied by the provider of the service, and meeting the definition of child day care center, but limited to no more than 12 children, including those of the provider, regardless of full time or part time status.

**49.050 CHILD FOSTER HOME** Refers to a home certified by State Department of Human Services that is maintained and lived in by the person named on the foster home certification. means any home maintained by a person who has under the care of the person in such home any child under the age of 18 years not related to the person by blood or marriage and unattended by its parent or guardian for the purpose of providing such child with care, food and lodging. This use must have a current certificate issued by the Children's Services Division.

**49.052 CLASSIFICATION, ZONING** see Section 1.04.10.

**49.068 DECISION** means the written recommendation, order or ordinance by which the Zoning Administrator, Hearings Officer, Planning Commission or Board makes its disposition of a land use action.

**49.070 DESIGNATED ARTERIAL OR COLLECTOR STREET** means a street designated as an arterial or collector or equivalent designation in the Comprehensive Plan or as defined by the Marion County Department of Public Works.

**49.076 DEVELOPMENT STANDARDS** means any standard or condition imposed in the applicable zone and in Chapters 24 and Chapters 26 to 34 and any conditions imposed as a condition of application approval.

**49.096 EXCAVATED AND BACKFILLED** means that the manufactured dwelling shall be placed in such a fashion that the bottom of the floor joist shall not be more than 12 inches above grade. Grade shall have the same meaning as "Grade, Finished."

**49.102 FARM USE** means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. Farm use also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. Farm use also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. Farm use includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. Farm use does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203 (3) of this section or land described in ORS 321.267 (1)(e) or 321.415 (5). In the UTF zone farm use means current employment of land for the primary purpose of obtaining a profit in money from farm use as defined in ORS 215.203 (2).

Preparation of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products. Products or by-products raised on such land means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm

**land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.**

means the use of land for raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm Use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm Use" also includes the propagation, cultivation, maintenance, and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203 (3) or land described in ORS 321.267 (1)(e).

In a zone allowing "farm use" the term may include the following uses or activities:

- (a) ~~Preparing the farm ground, starting and fostering the natural growth of the agricultural product, and harvesting and transportation of harvest produce including primary processing and packaging necessary to warehouse or ship the produce. provided 51% or more of the service is provided to lands owned or leased by the service provider.~~
- (b) ~~Sale of farm products after primary processing, on a premises provided 51% or more of the products were raised on the premises. , and other farm products for sale were raised in Marion County or an abutting county.~~
- (c) ~~Repair or sale of used equipment associated with the activities in (a) provided at least 51% of the equipment is owned by the owner of the subject property and at least 51% of the customers are Marion County or abutting residents.~~
- (d) ~~Manufacture or sale of farm supplies associated with the activities in (a) provided at least 51% of the supplies are used by the owner of the subject property and at least 51% of the customers are Marion County.~~

**49.105 FLAG LOT means a lot, the major portion of which has access to a street by means of a narrow strip of land not less than 20 feet in width.**

**49.128 GUEST FACILITY HOUSE** means an accessory building maintained for the purpose of providing temporary and gratuitous living accommodations, but dependent upon the main dwelling for cooking or bathroom facilities or both.

**49.130 HEARINGS ACTION** means those actions, other than administrative actions, taken by the Zoning Administrator, Hearings Officer or Board on land use actions where opportunity for a hearing is provided by this Ordinance, including legislative actions.

**49.132 HEARINGS OFFICER** means the person(s) so designated by the Board. ~~and the Marion County Planning Commission.~~

**49.142 LAND USE ACTION** means an amendment to the applicable city comprehensive plan or this ordinance, or a decision on a zone change, **partition, subdivision, property line adjustment, administrative review, variance**, adjustment, or conditional use permit, including appeals from any of the foregoing.

**49.146 LEGISLATIVE ACTION** means a land use action involving amendments to the applicable comprehensive plan, the text of this Ordinance, or an amendment to the Zoning Map involving ~~5-~~ **six** or more lots in separate ownership.

**49.157 LOT, BUILDABLE PORTION** means the area of a lot where a usable primary structure can be placed meeting all setback requirements.

**49.158 LOT DEPTH** means the horizontal distance between the front and rear lot lines measured **in the buildable portion of** at a point halfway between the side lot lines.

**49.170 LOT WIDTH** means the horizontal distance between the side lot lines measured **in the buildable portion of** at right angles to the lot depth at a point halfway between the front and rear lot lines.

**49.182 NOTIFICATION AREA** means an area bounded by a line 100 feet from and parallel to the subject lot **when the subject lot is wholly or in part within an urban growth boundary.** As used in this section "subject lot" includes not only the lot that is the subject of the proceeding for which notice is required, but also includes any contiguous lot in which any applicant or owner of the subject lot has either sole, joint or common ownership. ~~or an option to purchase, in whatever form.~~ In the event that the application does not apply to the entire lot, the boundary of the notification area shall be measured from the lot line, not the boundary of the portion of the lot.

Change is to clarify the notice requirements when the lot is split by UGB and since we can't or usually don't know if there is an option to purchase this should be removed.

**49.186 NURSING CARE FACILITY** means facilities providing residential care (SIC 836) and Nursing and Personal Care Facilities (SIC 805). It includes foster care homes, group care facilities or residential treatment, training or care facilities established, contracted for or operated by any division of the Department of Human Resources except the Corrections Division. It includes Residential Home and Residential Facility. ~~without a limit on the number of individuals receiving or providing care.~~

EXHIBIT B - 1

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

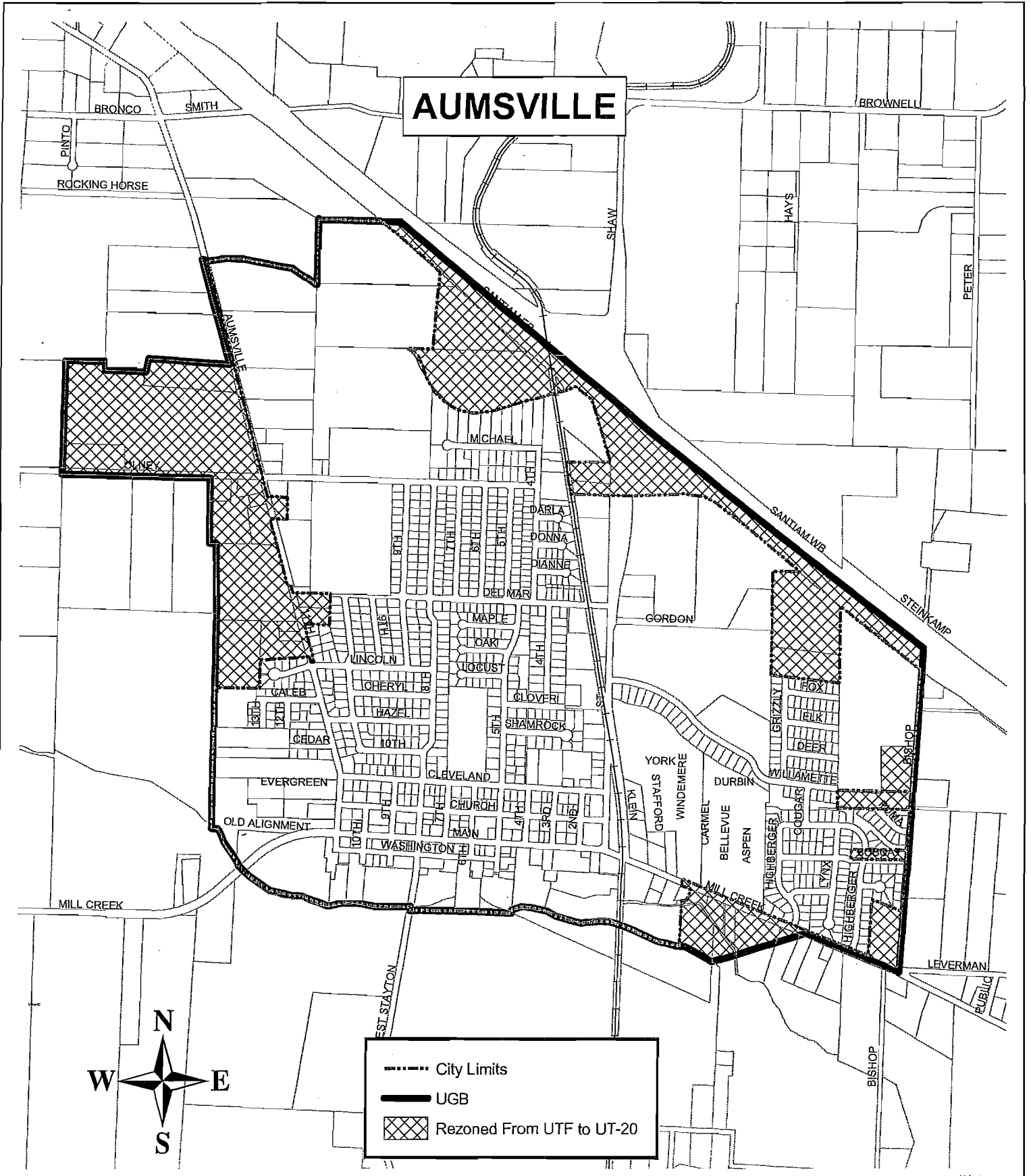


EXHIBIT B - 2

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

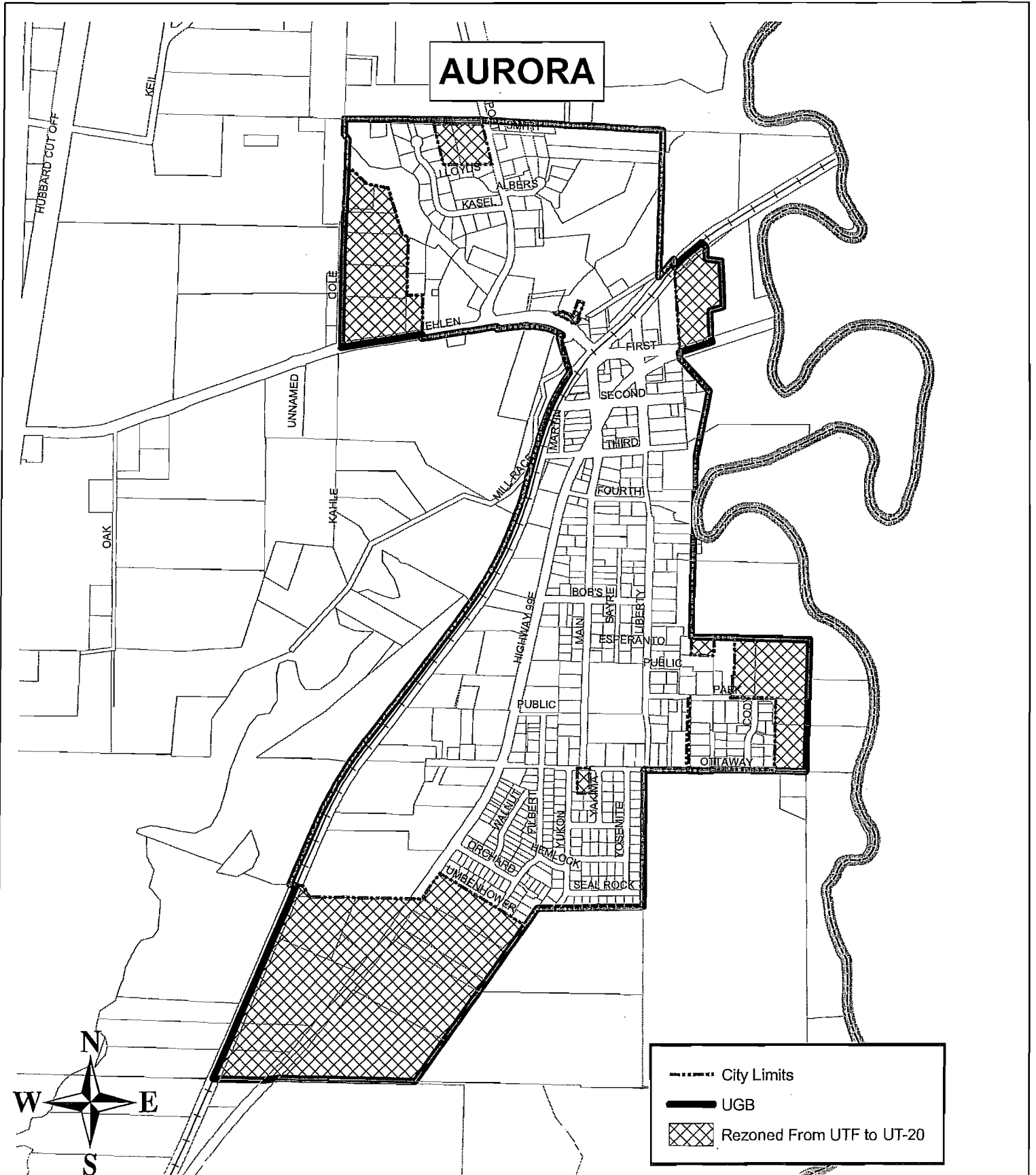




EXHIBIT B - 3

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

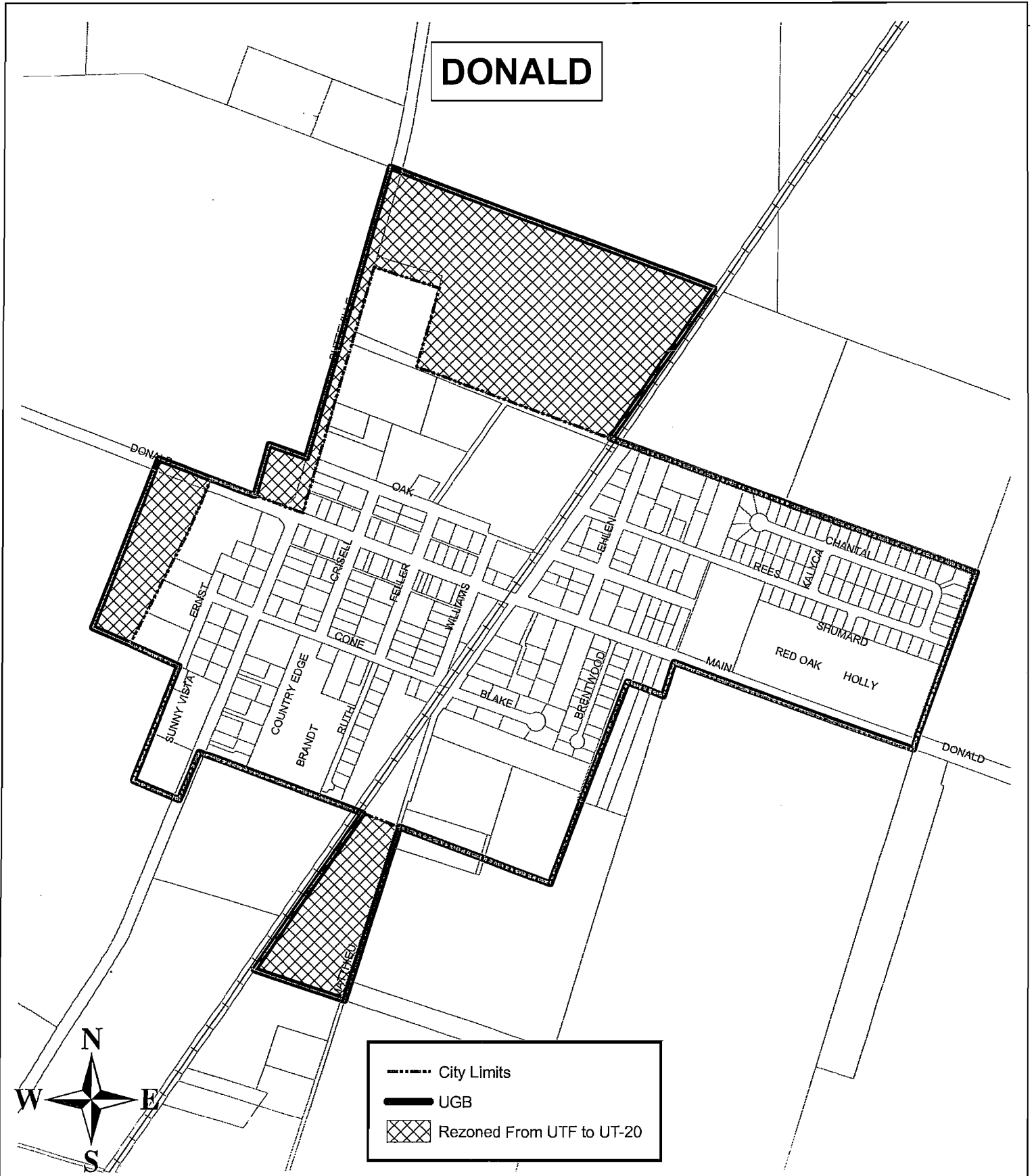


EXHIBIT B - 4

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

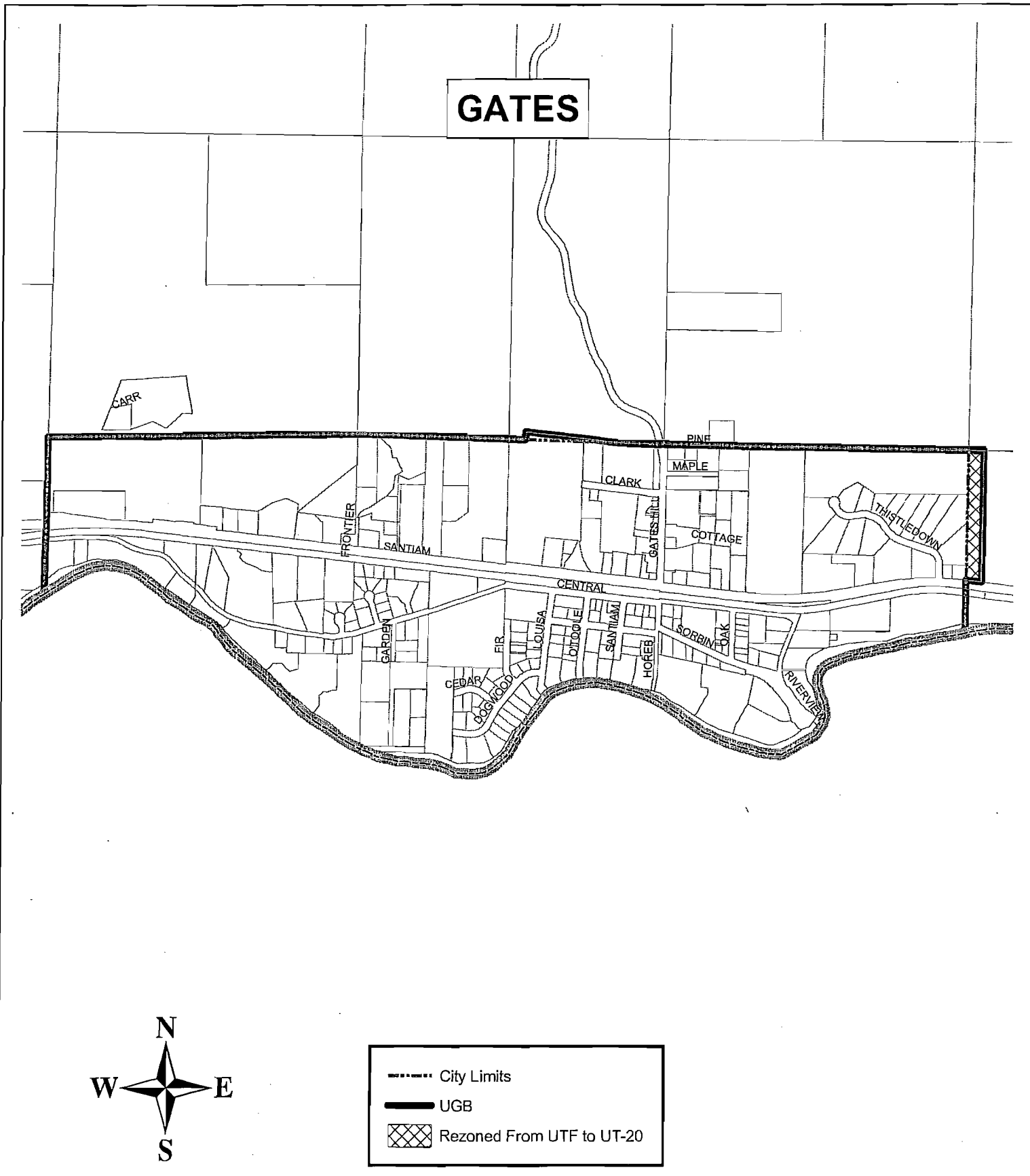


EXHIBIT B - 5

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

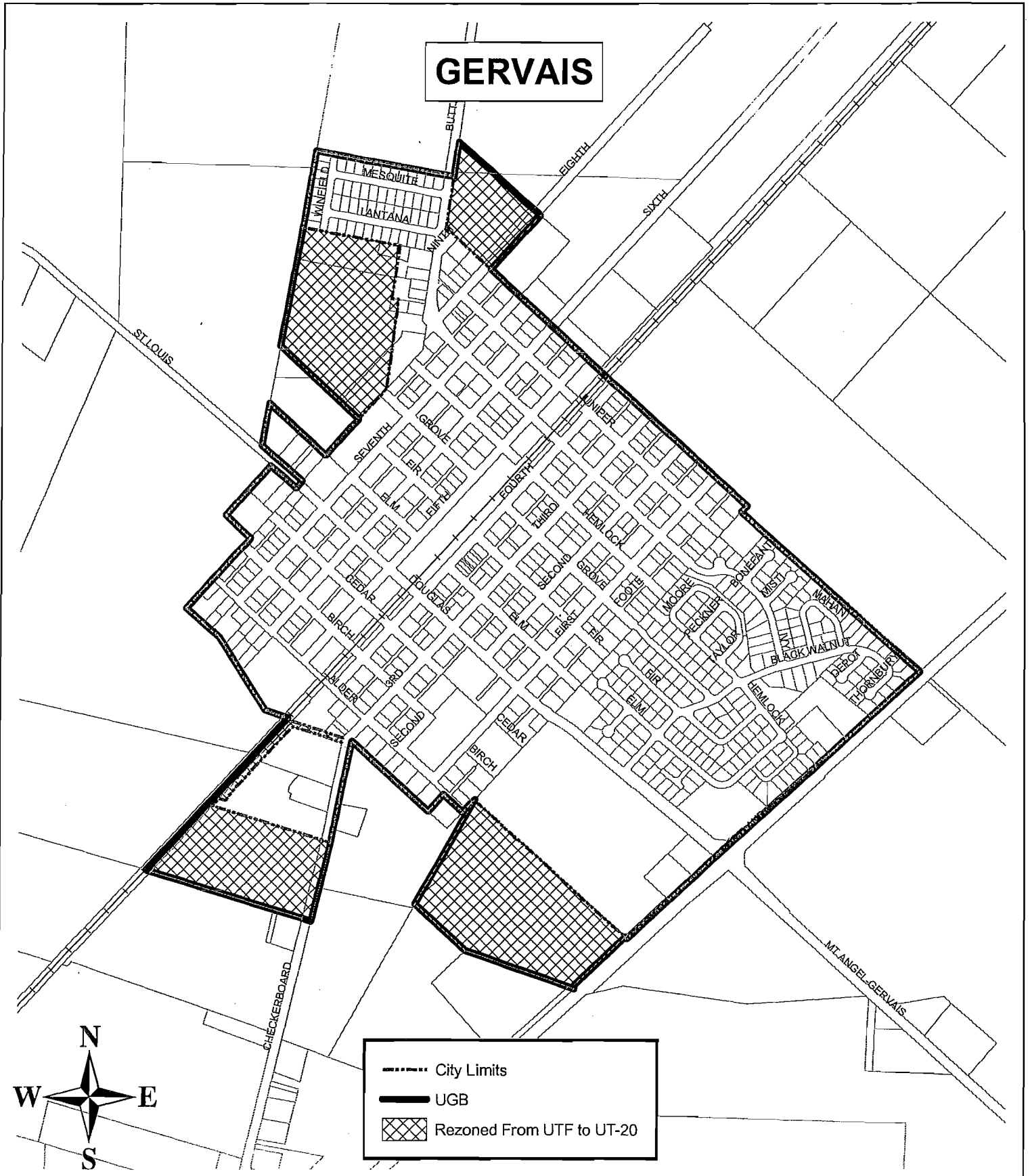


EXHIBIT B - 6

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

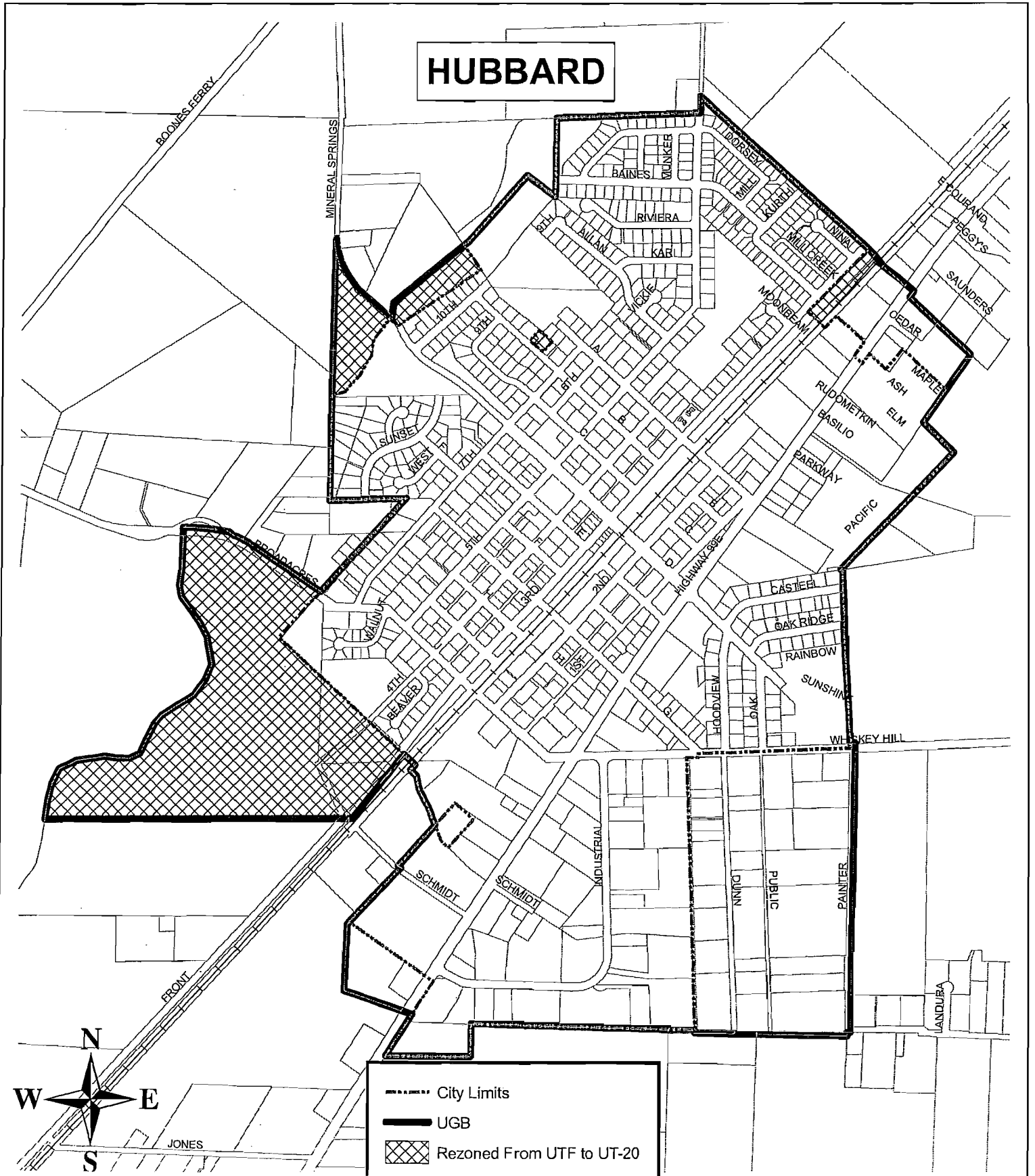


EXHIBIT B - 7

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

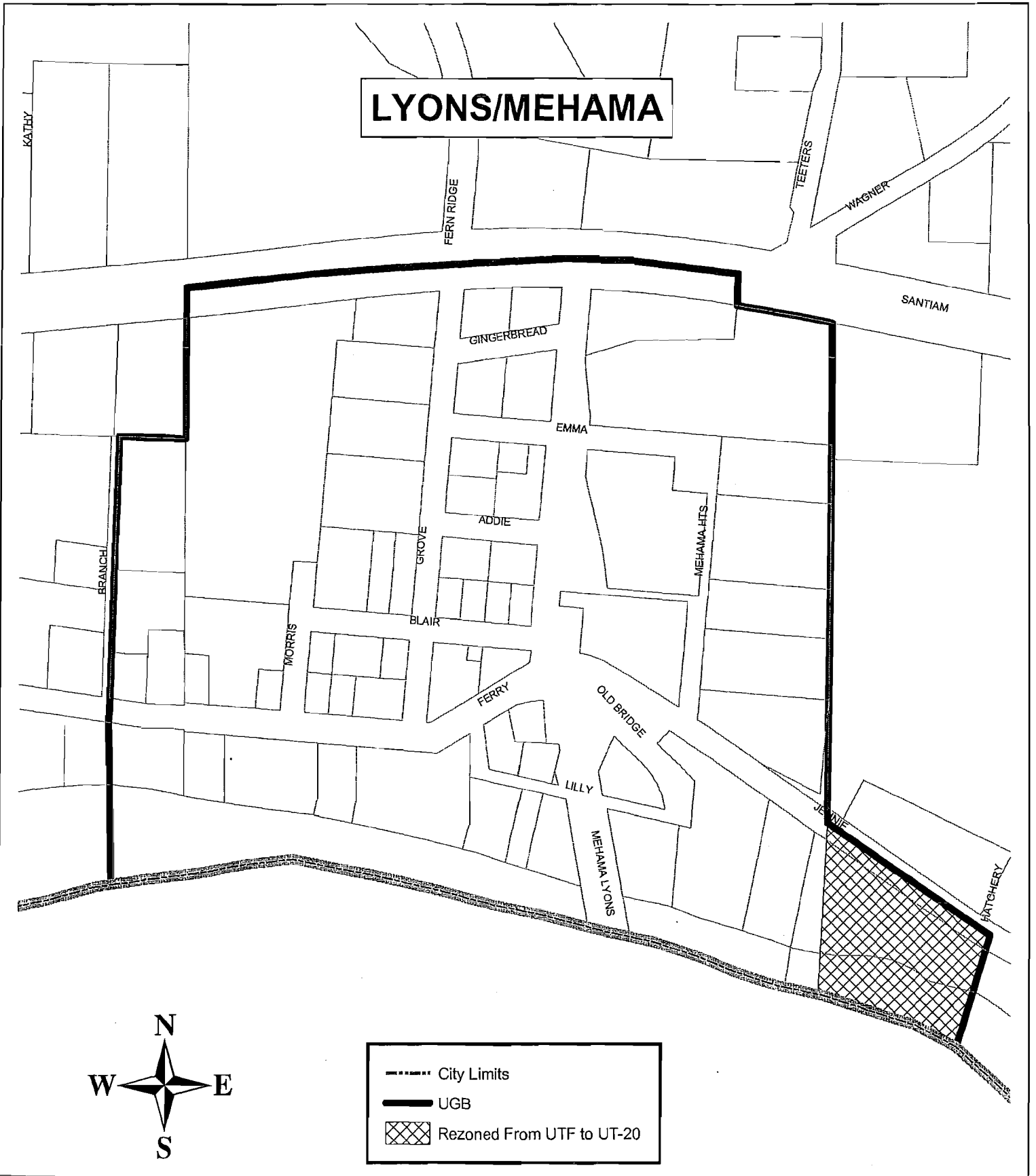


EXHIBIT B - 8

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

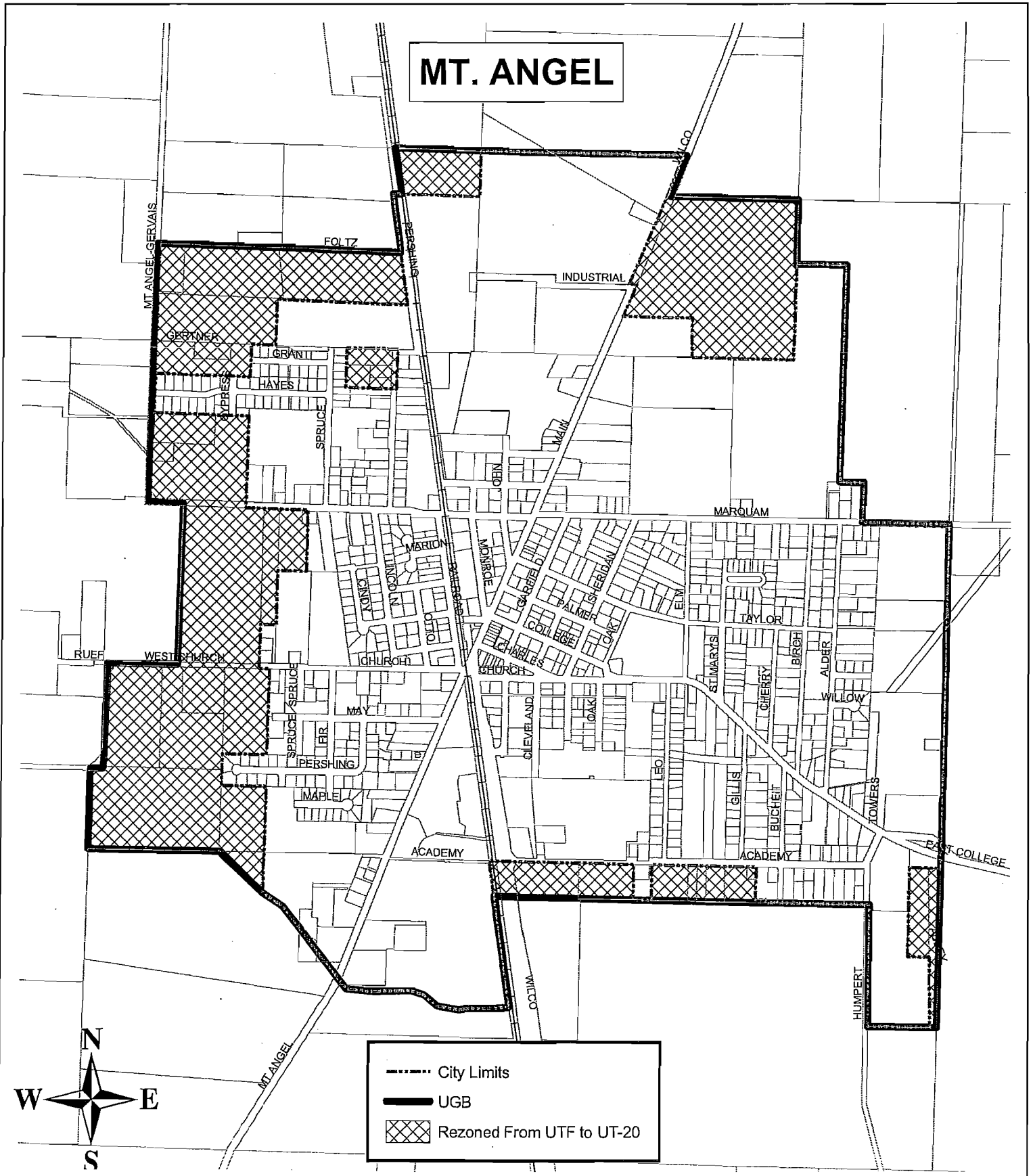


EXHIBIT B - 9

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

**SCOTTS MILLS**

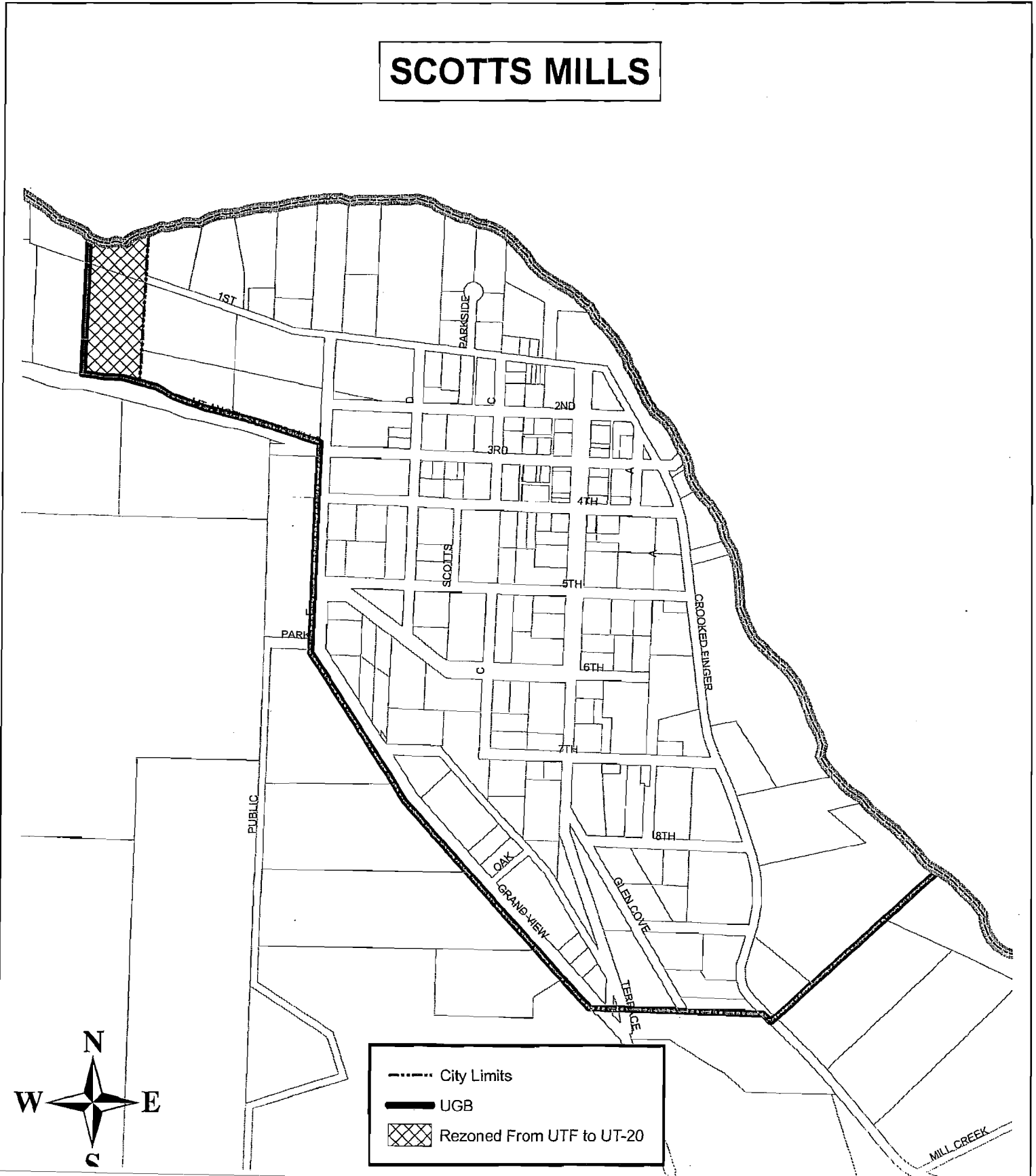


EXHIBIT B - 10

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.

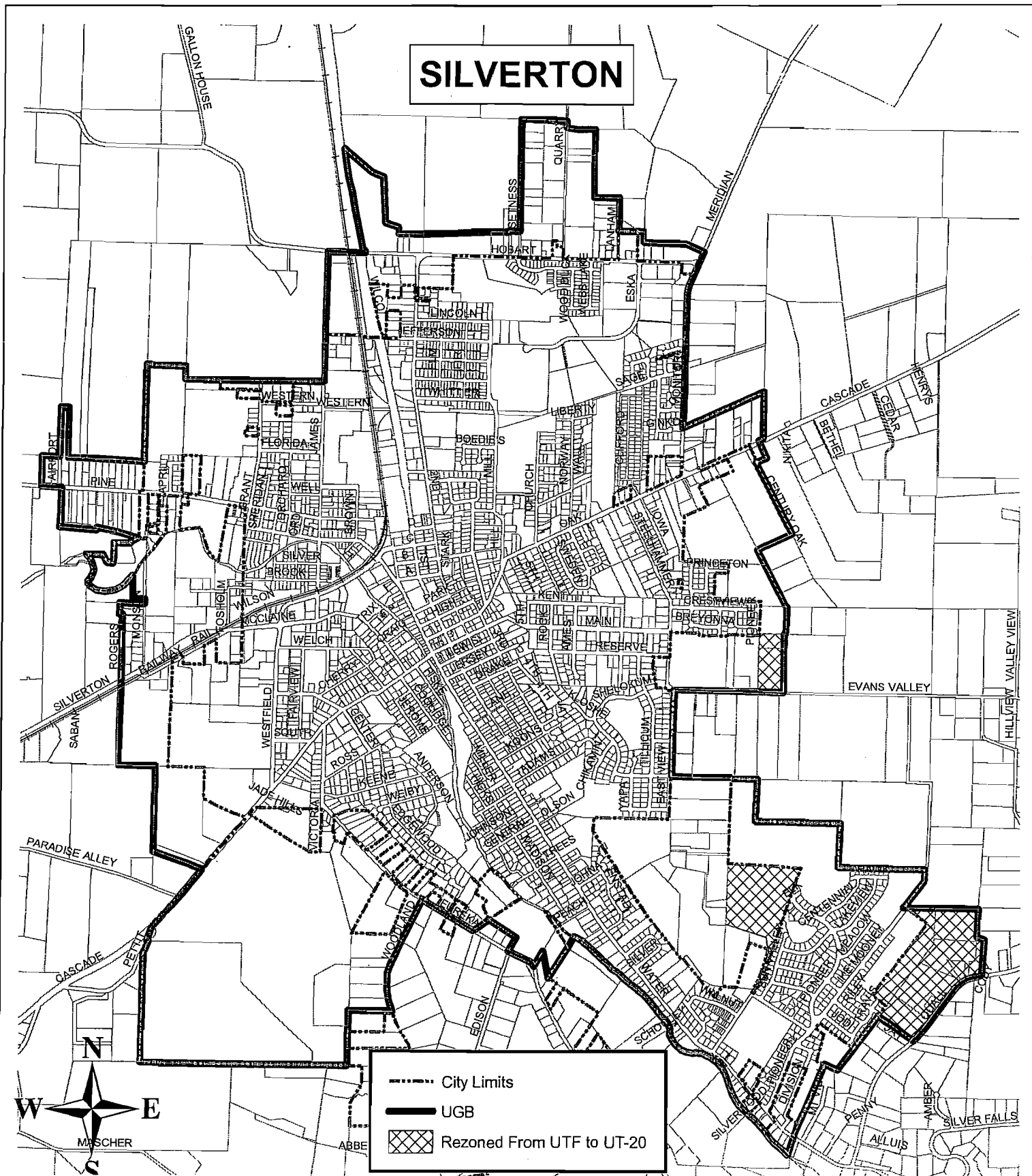
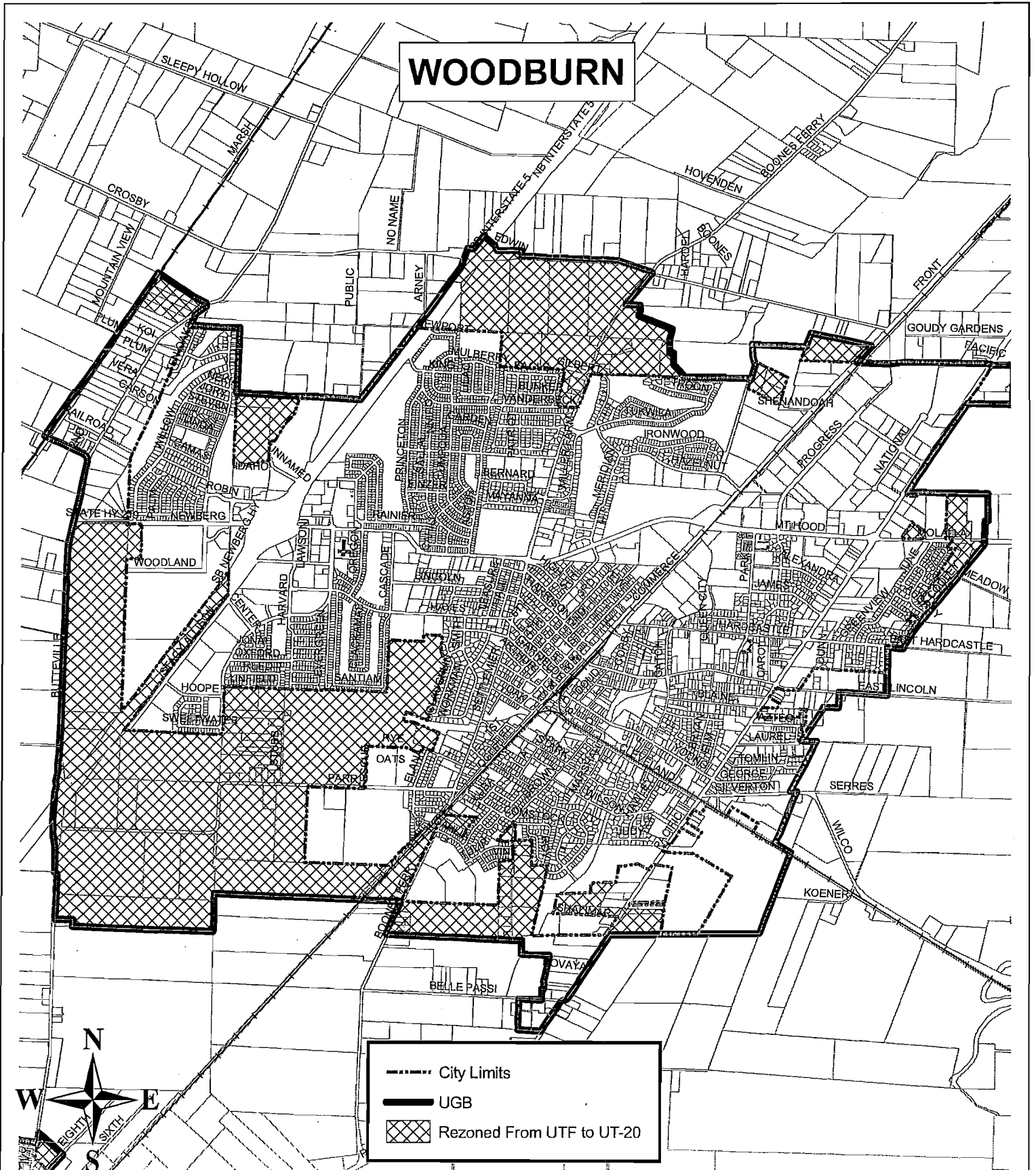






EXHIBIT B - 12

The following described property is rezoned from UTF (Urban Transition Farm) to UT- 20 (Urban Transition - 20 Acres). LA09-04/Urban Zone Amendment.





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