

CITY OF BANKS

ZONING ORDINANCE

AMENDED APRIL 1989

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Article 1. Introductory Provision

Section 1.010. Title

This ordinance shall be known as the CITY OF BANKS ZONING ORDINANCE.

Section 1.020. Purposes

The several purposes of this ordinance are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open space for light and air; to lessen the congestion on streets; to give an orderly growth to the city; to prevent undue concentrations of population; to facilitate adequate provisions for community utilities and facilities such as water, sewage, electrical distribution systems, transportation, schools, parks and other public requirements; and in general to promote public health, safety, convenience and general welfare.

Section 1.030. Definitions

As used in this ordinance the following words and phrases shall mean:

- (1) **Access**. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
- (2) **Accessory use or accessory structure**. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use. Accessory structures are of secondary Importance or function on the site, and are generally smaller than and detached from the primary structure.
- (3) **Alley**. A street which affords only a secondary means of access to property.
- (4) **Automobile service stations**. A business providing direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. Includes gas stations, car washes, and quick lubrication services. Accessory uses may include minor auto repair and tire sales.
- (5) **Building**. A permanent structure but not a mobile home built for the support, shelter or enclosure of persons, animals, chattels or property of any kind and having a fixed base on or fixed connection to the ground.
- (6) **Daycare facility**. Institution serving more than five children or adults who need daytime care.
- (7) **Dwelling, multi-family**. A building or portion thereof, designed for occupancy by three or more families living Independently of each other.
- (8) **Dwelling, single-family**. A detached building containing one dwelling unit and designed for occupancy by one family only.
- (9) **Dwelling, two-family (duplex)**. A detached building containing two dwelling units and designed for occupancy by two families.
- (10) **Dwelling unit**. One or more rooms in a building that are designed for occupancy by one family and that have not more than one cooking facility, but not a mobile home
- (11) **Family**. An individual or two or more persons related by blood, marriage, legal adoption or legal guardianship, living together as one housekeeping unit using one kitchen and providing meals or lodging to not more than two additional persons, excluding servants; or

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a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen.

- (12) **Frontage**. All of the property fronting on one side of a street that is between intersecting or intercepting streets, or between a street and a water feature or end of a dead end street.
- (13) **Grade, ground level**. The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.
- (14) **Hazardous materials**. Substances, which are capable of posing a severe risk to health, safety, or property. The hazard potential of a substance depends on its inherent dangerousness, on the quantity of the material at a site, on how it is stored and how it is used.
Hazardous materials are defined by the U.S. Department of Transportation in the Code of Federal Regulations (CFR), Title 49, Parts 100 to 177 (Oct. 1983). They include explosives, poisons, corrosives, flammables, combustibles, etc. Consumer Commodities of hazardous materials are packaged and distributed in a form Intended or suitable for sale through retail outlets or consumption by individuals for purposes of personal care or household use.
- (15) **Height of building**. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points of other types of roofs.
- (16) **Home occupation**. An occupation or profession carried on by a member or members of the family residing on the premises, which is accessory and subordinate to the primary residential use of the property.
- (17) **Level of service**. A measure of traffic conditions at intersections ranging from A (free flow) through F (severe congestion) expressed as a traffic volume to street capacity ratio.
- (18) **Livestock**. Domestic animals of types customarily raised or kept on farms for profit or other purposes.
- (19) **Lot**. A parcel or tract of land.
- (20) **Lot area**. The total horizontal area within the lot lines of a lot exclusive of streets and easements of access to other property.
- (21) **Lot, corner**. A lot abutting on two or more streets other than an alley, at their Intersection.
- (22) **Lot line**. The property line bounding a lot.
- (23) **Lot line, front**. The lot line separating the lot from the street other than an alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.
- (24) **Lot line, rear**. The lot line, which is opposite and most distant from the front lot line. In the case of an irregularly shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.
- (25) **Lot line, side**. Any lot line not a front or rear lot line.
- (26) **Lot width**. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
- (27) **Manufactured home**. A structure constructed for movement on the public highways, which is designed for use as a permanent residence, but not designed and built to the

specifications of the state or county building code for conventional structures in effect at the time of its construction.

- (28) **Manufactured home park.** A place where two or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.
- (29) **Nonconforming structure or use.** A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.
- (30) **Owner.** An owner of property or the authorized agent of an owner.
- (31) **Person.** A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
- (32) **Planned unit development.** A development constructed on a tract of land of at least five acres, planned and developed as an integral unit. The final site development plan functions as a substitute for the site development regulations of the underlying zoning district.
- (33) **Residential home.** A residence for five or fewer unrelated physically or mentally disabled persons and staff persons, who need not be related to each other or to any other home resident.
- (34) **Sign.** An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, institution or business.
- (35) **Street.** A public right-of-way for vehicular and pedestrian traffic.
- (36) **Structure.** Something constructed or built, or a piece of work artificially built up or composed of parts joined together in some definite manner.
- (37) **Structural alteration.** A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.
- (38) **Use.** The purpose, for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.
- (39) **Vehicular types:**

Motor vehicle. Vehicles that have their own motive power and are used for the transportation of people or goods. Motor vehicles include motorcycles, passenger vehicles, trucks, and some types of recreational vehicles.

Passenger vehicle. A motor vehicle designed to carry ten persons or less including the driver. Passenger vehicles include cars, minivans, passenger vans, and jeeps.

Recreational Vehicle. A vehicle with or without motive power, which is designed for sport or recreational use, or which is designed for human occupancy on an intermittent basis. Recreational vehicles include campers, motor homes, vacation trailers, off-road vehicles, dune buggies, and recreational boats.

Truck. A motor vehicle which is designed primarily for movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than ten persons. Truck includes vehicles commonly called trucks, pick-ups, delivery

vans, buses, and other similar vehicles.

Light truck. Light trucks are trucks up to 9,999 lbs. gross weight (gvw). Light trucks include Class 1 and 2 of the U.S. Truck Classification System. This group generally includes pickups and delivery vans.

Medium truck. Medium trucks are trucks from 10,000 lbs. to 19,499 lbs. gvw. Medium trucks include Class 3 through 5 of the U.S. Truck Classification System. This group generally includes step-in vans, minibuses, and some light delivery trucks.

Heavy truck. Heavy trucks are trucks over 19,500 lbs. gvw. Heavy trucks include Class 6 through 8 of the U.S. Truck Classification System. This group generally includes larger delivery trucks, tractor-trailers, and heavy specialty vehicles such as cement mixers and sanitation compactors.

Utility trailer. A vehicle designed to be pulled by a motor vehicle, which is used to carry property, trash or special equipment. Includes boat trailers.

- (40) **Vehicle and Farm Equipment Repair.** Firm servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles, as well as farm equipment under 19,500 pounds gross vehicle weight. Services may include repairs, painting, upholstery, and bodywork.
- (41) **Vision clearance area.** A triangular area of a corner lot at the intersection of two front lot lines, and through which it is necessary to retain vision clearance in the interest of public safety. The two legs of the triangle are of equal length and coincide with the two front lot lines. The apex is located at the intersection of the front lot lines, extended if necessary. The base of the triangle extends diagonally across the corner of the lot intersecting the two legs an equal distance from the apex. The size of the triangle and other requirements are specified in section 4.060 of this Code.
- (42) **Yard.** An open space on a lot, which is unobstructed from the ground upward except as, otherwise provided in this ordinance.
- (43) **Yard, front.** A yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of a building or other structure.
- (44) **Yard, rear.** A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building or other structure.
- (45) **Yard, side.** A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.
- (46) **Yard, street side.** A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.

Article 2. Establishment of Districts and Sub-districts

Section 2.010. Districts

All lands, tracts and area within the corporate limits of the City of Banks are hereby included within one of the following described land use zoning districts. The uses of each tract within the corporate limits of the City shall be limited to those permitted in the zoning classification district within which such tract or lands are situated.

Section 2.020. Sub-districts

A sub-district is an overlay district, which may be combined with any major classification district and zone. The regulations of a sub-district shall be supplementary to the regulations of the underlying district and zone, and the regulations of the sub-district and the underlying district and zone shall all apply.

Section 2.030. Zoning Classification Districts and Sub-districts

The City is divided into the following zoning classification districts and sub-districts, with applicable abbreviated designation/suffix:

<u>Districts</u>	<u>Abbreviated Designation</u>
SINGLE FAMILY RESIDENTIAL	R5
MULTI-FAMILY RESIDENTIAL	R 2.5
COMMUNITY FACILITIES	CF
GENERAL COMMERCIAL	C
GENERAL INDUSTRIAL	I
<u>Sub-Districts</u>	<u>Suffix</u>
PLANNED UNIT DEVELOPMENT	PD
HISTORIC RESOURCE OVERLAY	H

Section 2.040. Location of Districts and Sub-districts

- (1) The boundaries for the districts and sub-districts listed in this ordinance are indicated on the City of Banks Zoning Map, which is hereby adopted by reference. The boundaries shall be modified in accordance with the provisions of this ordinance.
- (2) The boundaries, legends, symbols, rotations and references of each of the zoning classification districts as depicted on the City of Banks Zoning Map, are hereby adopted by reference.
- (3) Unless otherwise specified, district and sub-district boundaries are section lines; subdivision lines; lot lines; centerlines of street or railroad right-of-way; or such lines extended.
- (4) Where the exterior boundary of any zoning classification district and sub-districts conforms to the corporate boundary of the City, the City boundary shall likewise be depicted on the City of Banks Zoning Map.

Section 2.050. Zoning Map

- (1) The City of Banks Zoning Map Is hereto attached and by this reference made a part hereof, bearing the signatures of the Mayor and City Recorder of the City of Banks, and entitled City of Banks ZONING MAP dated with the effective date of this ordinance, it shall be maintained on file at all times in the Office of the City Recorder.
- (2) Whenever authorized map changes have accumulated, the City Council shall have prepared a revised Zoning Map depicting all changes authorized after the original map was adopted.

Section 2.060. Zoning of Annexed Areas

Zoning regulations applicable to an area prior to annexation to the City shall continue to apply and shall be enforced by the City until a zone change for the area has been adopted by the City Council. The City may, in an ordinance annexing property to the City or ratifying annexation action of the Portland Metropolitan Area Boundary Commission, conduct. Such proceedings as may be necessary to

conform the zoning and land uses of the property to the requirements of the City's Zoning Code and Comprehensive Plan.

The Council may also by ordinance place the property or any part thereof in a zoning classification hereunder, provided the resolutions, ordinance and notices required to be given in the annexation proceedings include a declaration of the City's Intention to place the annexed property or such part thereof in such zoning classification.

Article 3. Use Zones

Section 3.000. SINGLE FAMILY RESIDENTIAL ZONE R5

Section 3.010. Uses Permitted Outright

No building, structure or land shall be used, and no building or structure shall be hereafter erected, enlarged or altered in this zone except for the following uses:

- (1) Dwelling, Single Family
- (2) Manufactured Home
- (3) Farming, truck gardening, orchards and nurseries, provided no retail or wholesale business sales office is maintained on the premises, and provided that no poultry or livestock, other than normal household pets are kept on the premises.
- (4) Residential home.
- (5) Accessory structure or use

Section 3.020. Conditional Uses Permitted

In this R5 zone the following uses and their accessory uses may be permitted as conditional uses when authorized and in accordance with Article 6.

- 1) Church, religious institution.
- 2) Daycare facility.
- 3) Home occupation.
- 4) Hospital, sanitarium, rest home, residential cares facility, nursing or convalescent home, or other health care facility providing overnight care.
- 5) Manufactured home park, subject to the provisions set forth in Section 6.130 of this Ordinance.
- 6) School: nursery, primary, elementary, junior or senior high; private, parochial or public.
- 7) Public and semi-public uses.
- 8) Duplex, with a minimum lot size of 9,000 square feet: one duplex per lot.
- 9) Golf course, country club, private club.
- 10) Any business, service, processing, or display essential or incidental to any permitted use in this zone and not conducted entirely within an enclosed building.

Section 3.030. Lot Dimensions

In an R5 zone the following standards shall apply:

- (1) The lot area shall be a minimum of 5,000 square feet.
- (2) The lot width at the building front line shall be a minimum of 50 feet.
- (3) The lot depth shall be a minimum of 90 feet.

Section 3.040. Setback Requirements and Lot Coverage

Except as otherwise provided in Section 5.030, the setbacks and permitted lot coverage for buildings In this zone shall be as follows:

- (1) The front yard shall be a minimum of 20 feet.
- (2) The side and rear yard shall be a minimum of 5 feet.
- (3) On a corner lot the side yard on the street side shall be a minimum of 15 feet.
- (4) Not more than 40 percent of the lot area shall be covered by buildings.

Section 3.050. Height of Buildings

Except, as otherwise provided In Section 5.040, no building in this zone shall exceed a height of 2 stories or 30 feet whichever is less.

Section 3.060. Additional Requirements

Additional requirements applicable to uses in this zone include the provisions of Article 4.

Section 3.300. MULTIFAMILY RESIDENTIAL ZONE R 2.5

Section 3.310. Uses Permitted Outright

No building, structure or land shall be used; and no building or structure shall be hereafter erected, enlarged or altered in this zone except for the following uses:

- (1) Dwelling, single family.
- (2) Dwelling, two family.
- (3) Dwelling, multi-family.
- (4) Boarding house, lodging or rooming house.
- (5) Accessory use or structure.

Section 3.320. Conditional Uses Permitted

In this zone the following uses and their accessory uses may be permitted as conditional uses when authorized and in accordance with Article 6.

Section 3.330. Lot Dimensions

In this zone the lot size shall be as follows:

1. The minimum lot area shall be 5,000 square feet. When used for duplex or multi-family residential purposes the minimum lot area shall be 2,500 square feet per unit.
2. The minimum average lot width shall be 60 feet except on a cul-de-sac where minimum width shall be 60 feet at the building line.

Section 3.340 Setback Requirements and Lot Coverage

Except as may otherwise be provided in Section 5.030, the setbacks and permitted lot coverage for buildings in this zone shall be as follows:

1. The front yard setback shall be a minimum of 20 feet.
2. The side and rear yards shall be a minimum of 5 feet for one story, 7 feet for a greater than one story.
3. On corner lots the setback shall be (20) 15 feet on any side facing a street other than an alley.

4. Where buildings are grouped as one project on one tract of land, the minimum distance between two buildings at any given point shall not be less than the sum of the required side yards computed separately for each building at that point.
5. Buildings shall not occupy more than 40% of the lot area.

Section 3.350 Height of Buildings

Except as otherwise provided in Section 5.040, no building in this zone shall exceed a height of stories or 30 feet whichever is less.

Section 3.360 Additional Requirements

Additional requirements applicable to this zone include provisions of Article 4.

Section 3.400. COMMUNITY FACILITIES ZONE

Section 3.410. Purpose

The purpose of the Community Facilities Zone is to provide zoning regulations and public review to ensure the appropriate development of properties in the City of Banks which are owned by public or semi-public agencies and which are Intended to be used for community facilities, while encouraging the preservation of natural resources inventoried under the requirements of statewide planning goals.

Section 3.420. Conditional Uses Permitted

The following uses and accessory uses or expansions of existing uses may be permitted as conditional uses in accordance with the provisions of Article 6:

- ◆ Public park and playground, swimming pool, community center, golf course and similar recreational facilities;
- ◆ Public school and associated facilities;
- ◆ Government institution; community service facility; caretaker facility

Section 3.430. Lot Dimensions

There shall be no minimum dimensional requirements in this zone, except as may be required to meet other requirements of this ordinance such as setback and parking requirements.

Section 3.440. Setback Requirements

Except as may be otherwise provided in Section 5.030, the setbacks in this zone shall be as follows:

- (1) The front yard setback shall be a minimum of 20 feet.
- (2) The side and rear yard setbacks shall be a minimum of 10 feet.
- (3) On a corner lot, the side yard on the street side shall be a minimum of 15 feet.

Section 3.450. Height of Buildings

Except as may be otherwise provided in Section 5.040, no building in this zone shall exceed a height of 3 stories or 35 feet, whichever is less.

Section 3.460. Additional Requirements

Additional requirements applicable to this zone include the provisions of Article 4.

Section 3.500. GENERAL COMMERCIAL ZONE C

Section 3.510. Uses Permitted Outright

Uses permitted outright in this zone shall include all retail sales and service, and office uses, including a structure up to 20,000 square feet gross floor area, except as specifically listed as a conditional use.

This includes:

- (1) Consumer goods sales, rental, repair and service (e.g., automobiles and automobile parts and accessories, retail bakery, florist, gift shop, grocery, meat market, shoe sales and repair, bookstore, tailor shop; appliance, clothing, department, farm supplies and equipment, furniture, garden supplies, jewelry, records, second hand goods, sporting goods, stationery, and variety store; newsstand, pet shop, etc.)
- (2) Personal service, i.e. barber, beauty salon, tanning salon; dry cleaner, Laundromat; copy shop; medical, dental, veterinary, legal, financial, real estate, photographer's and other professional business; janitorial service; plumbing, electrical and contractor sales and service, delicatessen, restaurant (provided no liquor is served on the premises), etc.
- (3) Accessory uses and structures

Section 3.520. Conditional Uses Permitted

In this zone the following uses and their accessory uses may be permitted as conditional uses in accordance with the provisions of Article 6:

- (1) Automobile service stations
- (2) Vehicle and farm equipment repair
- (3) Recreational vehicle park, campground
- (4) Community service; government institution
- (5) Utilities
- (6) Radio and TV stations and transmitters
- (7) Lumber yard
- (8) Medical institutions offering overnight care and treatment
- (9) Schools
- (10) Daycare centers
- (11) Religious institutions
- (12) Wholesale and distribution business
- (13) Drive-in establishments
- (14) Personal entertainment, i.e. restaurant, bar, hotel, motel, bowling alley, billiard or pool hall, arcade, movie theater, ice rink, dance hall, health club, membership club, lodge, fraternal organization, etc.
- (15) Major entertainment, i.e. stadium, sports arena, coliseum, race track, auditorium, rodeo grounds, exhibition hall, and other structures and activities which generally draw large numbers of spectators to specific events or shows
- (16) Retail establishment or office over 20,000 square feet
- (17) Any processing, activity, or display essential or incidental to a permitted use which is not conducted entirely within an enclosed building
- (18) Any use or storage of hazardous materials in amounts exceeding consumer commodities
- (19) Fuel oil distribution and storage

North Banks area only

(20) Uses Permitted Outright under Section 3.610

(21) Multi-family residential uses in accordance with Section 3.330 and

Section 3.530. Lot Dimensions

There shall be no minimum dimensional regulations in this zone except as may be required to meet other provisions of this ordinance such as setback and parking requirements.

Section 3.540. Setback Requirements

Except as may otherwise be provided in Section 5.030, the setbacks in this zone shall be as follows:

- (1) No front yard setback shall be required in this zone, except when sharing frontage with a residential zone, the front yard setback shall be 20 feet. No front yard setback shall be required in the Commercial district along Main Street.
- (2) No side or rear yard setback shall be required, except when abutting a residential zone, a side or rear yard of 5 feet shall be required.

Section 3.550. Height of Buildings

Except, as otherwise provided in Section 5.040, no building in this zone shall exceed a height of 3 stories or 35 feet whichever is less.

Section 3.560. Additional Requirements

Additional requirements applicable to this zone include the provisions of Article 4.

Section 3.600. GENERAL INDUSTRIAL ZONE I

Section 3.610. Uses Permitted Outright

No building, structure, or land shall be used, and no building or structure shall hereafter be erected, enlarged or altered in this zone, except for the following uses:

- (1) Boat building.
- (2) Book bindery
- (3) Bottling plant.
- (4) Coffee roasting.
- (5) Cold storage plant
- (6) Feed and seed processing and storage.
- (7) Laboratories: experimental, dental, medical, photo, or motion picture, research or testing.
- (8) Laundry or dry cleaning plant.
- (9) Lumber yard.
- (10) Manufacture, assembly, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, food and beverage products, electric and neon signs, billboards or commercial advertising structures, clothing, furniture, electrical goods, heating equipment, paper products (but not paper itself), tools and hardware, boxes, coffins, medicines, musical instruments, toys, novelties, rubber or metal stamps, optical goods, scientific and precision instruments or equipment, pottery and other similar ceramic products, sash and door, surgical Instruments and dressings,

artificial limbs, dentures, hearing aids and other devices employed by the medical and dental professions, electrical appliances, electronic instruments and devices, radios, phonographs, television.

- (11) Planing mill.
- (12) Plastics; molding of, including the manufacture or products thereof, provided all grinding operations are conducted within a building.
- (13) Plumbing, electrical or general contractor and shop, including storage of contractors' equipment.
- (14) Plywood sales.
- (15) Public service and utility.
- (16) Sheet metal, machine and welding shop.
- (17) Vehicle and farm equipment repair.
- (18) Veterinarian or animal hospital
- (19) Warehousing, distribution.
- (20) Weaving of clothing, wool, flax, and other fibrous materials.
- (21) Accessory use of structure, including caretaker residence.

Section 3.620. Conditional Uses Permitted

In this zone the following uses and their accessory uses may be permitted conditional uses when in accordance with Article 6.

- (1) Automobile service station.
- (2) Batteries, paint, pickles, sauerkraut or vinegar, wallboard, cans, soap and cleaning compounds, paper; manufacture of.
- (3) Brewery.
- (4) Drive-in theaters.
- (5) Flour milling, grain storage or elevator.
- (6) Fruit packing and processing; cannery.
- (7) Fuel oil distribution (home use only) and storage.
- (8) Foundry.
- (9) Natural resource extraction, gravel mining and rock crushing, subject to the provisions set forth in Section 6.110.
- (10) Manufacture of motor vehicles, trucks, recreational vehicles, and utility trailers as well as mobile homes.
- (11) Public utility (such as water tower, substations, etc.)
- (12) Radio and TV transmitters
- (13) Railroad right-of-way, truckage and related facilities.
- (14) Slaughterhouse.
- (15) Solid waste facilities; auto wrecking yards, junkyards; subject to the provisions of Section 6.120.
- (16) Stone, marble and granite grinding, dressing and cutting.
- (17) Any other use held similar to the above uses, as approved by the City Council.
- (18) Any processing activity or display essential or incidental to any permitted use in this zone and not conducted entirely within an enclosed building
- (19) Any use or storage of hazardous materials in amounts or forms exceeding consumer commodities.

Section 3.630. Lot Dimensions

There shall be no minimum dimensional requirements in this zone except as may be required to meet other provisions of this ordinance such as setback and parking requirements.

Section 3.640. Setback Requirements

Except as may otherwise be provided In Section 5.030, the setbacks for nonresidential uses in this zone shall be as follows:

- (1) The front yard setback shall be (30) 20 feet
- (2) The side and rear yard setback shall be 20 feet when abutting a residential zone.
- (3) Setbacks are not required when side or rear property lines abut a railroad right of way.

Section 3.650. Height of Buildings

Except as otherwise provided in Section 5.040, no building in this zone shall exceed a height of 3 stories or 35 feet whichever, is less.

Section 3.660. Additional Requirements

Additional requirements applicable to this zone include the provisions of Article 4.

Section 3.700. HISTORIC RESOURCE OVERLAY ZONE (H)

Section 3.710. Purpose

The purpose of the Historic Overlay Zone is to promote the public health, safety, and general welfare by providing for the preservation, protection, enhancement, and perpetuation of designated historic sites and structures In order to:

- Safeguard the city's heritage as embodied and reflected In its historic resources;
- Encourage public awareness, knowledge, and appreciation of the City's history and culture;
- Foster community pride and sense of Identity based on recognition and use of historic resources;
- Identify and resolve conflicts between the preservation of historic resources and incompatible improvements or loss of the resource;
- And carry out the provisions of Oregon's Statewide Planning Goal 5.

Section 3.720. Definitions

For the purpose of this section, the following definitions shall apply:

Alteration: the vertical or horizontal addition to, removal of or from, or physical modification of any exterior part of portion of a historic site or structure. The addition of exterior signs, walls, fences, decks, porches etc. shall be considered an alteration. Alterations, which cumulatively affect less than 15% of the surface area of the face of the building, which they are on, do not require review and approval.

Historic Resource: an Individual structure or site of historic significance as defined below, and which is identified in the Banks Comprehensive Plan.

Historic significance: a building or site with historic significance

- (1) Is associated with a significant historic event or with a person, group of persons, or Institution which made a significant contribution to the community, state, or nation or
- (2) Represents a distinctive architectural style or building type and includes distinguishing architectural details, materials, or craftsmanship characteristic of a historic architectural style, and
- (3) The exterior appearance of the building or site must be generally unaltered from the period from which it derives its significance.

Section 3.730. General Provisions

(1) Applicability; Permit Required.

All proposed exterior alterations and demolitions of sites and structures subject to the Historic Resource Overlay Zone shall be subject to the provisions of this Section, with the exception of improvements or demolitions required by other governmental agencies. Planning Commission approval of the proposed alteration or demolition is required before a building permit can be issued.

(2) Uses Allowed.

All uses allowed in the primary district in which the historic site or structure is located shall be allowed.

(3) Ordinary maintenance and repair.

Nothing in this section shall be construed to prevent the ordinary maintenance and repair of a designated historic resource.

(4) Application Procedure.

Applications for approval of exterior alteration or demolition of a Historic Resource shall be submitted to the City Recorder and shall include a site plan, architectural drawings, and a description of the proposal and its compliance with the criteria below. There shall be no fee for this procedure. Upon receipt of a complete application, the Planning Commission will schedule a public hearing consistent with the provisions of Article 9, with the exception of Section 9.050(2) (notice to neighboring property owners). When demolition is proposed, a notice will be posted on the property consistent with City requirements.

(5) Planning Commission Review.

The Planning Commission shall issue a decision on the request within 60 days of receipt of a complete application. The Planning Commission may attach conditions necessary to ensure compliance with the purpose of this section, which may include a condition to delay the proposed action for a maximum of 60 days from the date of the decision until a more satisfactory solution can be found.

(6) Review Criteria.

In evaluating applications for exterior alterations, the Planning Commission shall consider:

- (a) The purpose or necessity of the proposed alteration; the compatibility of the proposed alteration with the traditional
- (b) Historic character and architectural integrity of the structure or site in terms of design, architectural detail, scale, proportion, materials, and texture;
- (c) Whether the proposed alteration is the minimum or least disruptive alteration to meet the desired purpose.

In reviewing applications for demolitions, the Planning Commission shall consider:

- (a) The physical condition and safety of the structure; and
- (b) Whether a reasonable effort has been made to preserve the structure by restoration or removal, by offering the structure for sale or public acquisition, or by alternative means. Advertising the building for sale for two consecutive weeks in a newspaper of general circulation in the Banks area, and documenting that the highest bona fide offer for the structure has not been rejected, shall constitute satisfactory evidence of reasonable effort to preserve the structure.

Article 4. Development Standards

Section 4.010. Maintenance of Minimum Lot Area and Setback Requirements

No lot area, yard or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance, and no lot area, yard or other open space which is required by this ordinance for one use shall be used as the required lot area, yard or other open space for another use.

Section 4.020. Access

Except as modified in this section, every lot shall abut a street, other than an alley, for at least 20 feet.

Section 4.030. Accessory Uses and Structures

An accessory use or structure shall comply with the requirements for a principal use, except as this ordinance specifically allows to the contrary.

Section 4.040. Fences

A fence or hedge within a front yard or a street side yard shall not exceed an elevation 3 1/2 feet above the street-curb elevation.

Section 4.050. Performance Standards

In a Commercial or Industrial zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards. It is the responsibility of the applicant to demonstrate compliance with these standards.

(1) Noise.

- (a) All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and, as measured at any property line, shall not exceed applicable noise standards as determined by the Department of Environmental Quality (DEQ).
- (b) Noise making devices, which are maintained and utilized, solely to serve as warning devices are excluded from these regulations.
- (c) Noise created by highway vehicles and trains is excluded from these regulations.

- (2) **Vibration.** No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at the property line of the use concerned.

- (3) **Air emissions.** All emissions into the air of air contaminants, smoke, or particulate must meet applicable DEQ standards.
- (4) **Wastewater discharge.** All wastewater discharge must meet applicable DEQ standards and must be approved by U.S.A.
- (5) **Storm water disposal.** All developments Including new construction or enlargement of buildings, and grading and paving activities at the site of new or existing uses must be provided with a drainage system that is adequate to prevent undue retention of surface waters on the site, and to ensure that adjacent properties are not unreasonably burdened with surface waters as a result of such developments or activities. The standard of reasonableness shall be the runoff rate existing prior to the development plus an increase of no more than 10%.
- (6) **Odors.** The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.
- (7) **Heat and Glare.**
 - (a) Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.
 - (b) Exterior lighting shall be directed away from adjacent properties.
- (8) **Garbage and litter.** Materials including wastes shall be stored and grounds shall be maintained in a manner that will not create a nuisance for surrounding properties and will not attract or aid the propagation of insects or rodents or create a health hazard.
- (9) **Exterior storage of materials and equipment.** The open exterior storage of materials and equipment is permitted only under the following conditions:
 - (a) The storage must be in an area contained by a sight-obscuring fence at least six feet high but not more than 10 feet high.
 - (b) Exterior storage may not be located in a required setback area.
 - (c) Other standards of this section apply.
- (10) **Boundary fences.** Fences will be allowed inside of a boundary planting screen and where it is necessary to protect property of the industry or business concerned or to protect the public from a dangerous condition, provided that no fence taller than 3 1/2 feet shall be constructed in the required setback from a public right-of-way.
- (11) **Vehicular access and traffic.**
 - (a) Access points to an industrial or commercial site from a street shall be located to minimize traffic congestion and, to the extent possible, to avoid directing traffic into residential areas.
 - (b) Where possible within Industrial or commercial districts, access to the street shall be made to serve more than one site or business
 - (c) Traffic generated by the proposed use may not have the effect of adversely impacting the existing level of service (LOS) at nearby intersections.
- (12) **Landscaping and screening**
 - (a) Properties abutting a residential zone shall provide and maintain a dense evergreen landscaped buffer at least 8 feet deep which attains a height of at least six feet within two growing seasons or such other screening measures as may be prescribed by the Planning Commission.
 - (b) Required setback areas adjacent to streets shall be continuously maintained In lawn or with lawn, trees, shrubs, and/or flowers established and maintained in a manner

providing a park like character to the property except where driveways are located.

Section 4.060. Visibility Clearance

Corner lots shall have vision clearance as follows:

- (1) In districts where front yards are required, each leg of the vision clearance triangle shall be a minimum of 15 feet in length.
- (2) Vision clearance triangles shall be kept free of all visual obstructions from two and one-half feet to nine feet above the curb line. Where curbs are absent, the crown of adjacent streets shall be used as the point of reference.
- (3) Vision clearance requirements on corner lots may be waived by the City Council or his designee, if the City Council finds that:
 - (a) Traffic entering the intersection is controlled by traffic signals or stop signs; and
 - (b) The distance from the curb line to the property line is 10 feet or more; and
 - (c) On-street vehicle parking, street trees or other plantings do not interfere with necessary vision clearance; or, in lieu of these three findings, that
 - (d) Topographic conditions are so extreme that it is not practical to provide required vision clearance.

Section 4.070. Parking in Residential Zones

In residential zones, the parking or storage of heavy trucks and of neglected or discarded vehicles is prohibited.

LEVEL OF SERVICE DESCRIPTIONS

LEVEL OF SERVICE **A** Volume/Capacity, Ratio- 0 - 0.59

- Free flow conditions
- No vehicle waits longer than one
Signal indication

LEVEL OF SERVICE **B** Volume/Capacity Ratio 0.60 – 0.69

- Stable traffic flow
- Motorists rarely wait through
More than one signal indication

LEVEL OF SERVICE **C** Volume / Capacity Ratio 0.70 - 0.79

- Stable and acceptable flow but speed and maneuverability somewhat restricted due to higher volumes
- Motorists intermittently wait through more than one signal indication
- Occasional backups behind left turning vehicle

LEVEL OF SERVICE **D** Volume/Capacity Ratio 0.80 0 - 0.89

- Extensive delays at times
- Some motorists, especially left turners, may wait through one or more signal indications, but enough cycles with lower demand occur to prevent excessive backups
- Maneuverability restricted

LEVEL OF SERVICE E Volume /Capacity. Ratio 0.90 - 0.99

- Very long queues may create lengthy delays, especially for left turning vehicles
- Volume at or near capacity
- Unstable flow

LEVEL OF SERVICE

- Backups from locations downstream restrict movement at intersection approaches
- Forced flow conditions
- Stoppage for long periods due to congestion
- Volumes drop to zero in extreme cases

Section 4.080. Performance Bonds

Performance bonds may be required in such cases where the City Council determines that such shall be necessary to guarantee proper completion of required improvements within time periods specified.

Section 4.100. Off-Street Parking

Section 4.110. Policy

In all districts there shall be provided at the time of erecting new structures, or at the time of enlarging, moving or increasing of capacity (by creating or adding dwelling units, commercial or Industrial floor space, or seating facilities) or at the time of a change of use, minimum off-street parking space, other than In required front yards or required side yards along flanking streets of corner lots, with adequate provision for ingress *and* egress to the street, in accordance with the requirements of the following sections. The exterior storage or display of vehicles for sale or awaiting repair or pickup at a vehicle repair shop shall not be required to meet the provision for off-street parking, but shall be regulated under the provisions for exterior storage and/or display.

Section 4.120. Design Standards

- (1) Off-Street Parking Lot Design. All off-street parking lots shall be designed in accordance with City standards for stalls and aisles as set forth in the following drawing and table:

NOTE

- (1) For one (1) row of stalls use "C" plus "D" as minimum bay width.
- (2) Public alley width may be Included as part of dimension "0", but all parking stalls must be on private property, off the public right-of-way.
- (3) For estimating available parking area, use 350 sq. ft. per vehicle for stall, aisle and access areas.
- (4) The stall width for self-parking of long duration is 8.6'; for higher turnover self-parking Is 9.0'; and for supermarkets and similar facilities Is 9.5-10.0'.

- (5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24'. The minimum aisle width for emergency vehicle access (one way traffic) is 20'.
- (6) Where appropriate bumper overhang area is provided (extruded curbs), "G" can be subtracted from "C" to determine stall depth. Dimensions of required recreational vehicle spaces are 10' x 25'.

(1) Parking Space Plans.

No building permit shall be issued until plans are presented that show property that is and will remain available exclusively for off-street parking. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this Ordinance. Reduction of the amount of required off-street parking shall be considered a violation of this Ordinance. Parking plans shall be drawn to scale and shall delineate parking spaces, drives and aisles, bumper rails, and other features required by this Ordinance.

(2) Parking Space Location.

Off-street parking facilities may not be located in a required front yard or street side yard setback area and shall be located as herein specified. Where a distance is specified, such distance shall be the distance measured from the nearest point of the parking facility to the nearest point of the building, which such facility is required to serve.

- (a) For all single-family dwelling structures including Manufactured homes and motels: On the same lot with the building they are required to serve.
- (b) For rooming houses and apartment houses: Within one hundred (100) feet of the building they are required to serve.
- (c) For uses other than those specified above: Within two hundred (200) feet of the building they are required to serve.

Section 4.130. Surfacing

All off-street parking spaces and driveways shall be hard surfaced with concrete, asphaltic cement, or similar surface, which is resistant to dust, and mud. Type and thickness of this hard surface must be approved by the City Engineer.

Section 4.140. Bumper Rails

All required off-street parking spaces, except those for single family residences, must be equipped with bumper rails located in such a manner as to prevent vehicles from striking landscaping, fences, buildings, or walls, or from overhanging their spaces in a manner which might obstruct aisles, walks, or other spaces or property.

Section 4.150. Access and Maneuvering

- (1) Groups or more than four (4) off-street parking spaces shall be served by a driveway or aisle so that no backing movements or other maneuvering within a street other than an alley will be required.
- (2) Service drives or aisles to off-street parking areas shall be designed and constructed to facilitate the flow of traffic and to provide maximum safety to pedestrians and vehicular traffic on the site.
- (3) Service drives or aisles shall be clearly and permanently marked and defined through the

use of bumper rails, fences, buildings, walls, paintings, or other appropriate markers and shall not be considered as parking spaces.

Section 4.160. Landscaping

- (1) All parking lots designed to accommodate five (5) or more vehicles shall be developed with at least five (5) percent of any uncovered parking area in plantings or other landscaping as approved by the (City Council) city planner.
- (2) Such landscaping or plantings shall be located in defined planting areas evenly distributed throughout the parking area.
- (3) Required planting areas shall have a width of not less than three (3) feet.
- (4) Required landscaping shall be continuously maintained.

Section 4.170. Enclosure and Screening

- (1) Any portion of an off-street parking area, other than that for a single family residence, which adjoins a residential district shall be screened from the adjoining residential area by a sight-obscuring fence having a minimum height of six (6) feet, and/or by a dense evergreen landscape screen which attains a height of at least six feet within 2 growing seasons.
- (2) Any off-street parking area, other than that for a single family residence, which adjoins a public street shall be fenced with a railing, rail fence, evergreen hedge, wall or other continuous barricade of harmonious material and design at least eight (8) inches and no more than forty-two (42) inches in height, except for necessary access drives or aisles.

Section 4.180. Number of Required Spaces

Required off-street parking spaces are as follows. Where more than one standard applies, the greater number of spaces shall be required.

1. Residential structure two spaces for each dwelling unit
2. Rooming and lodging house one space for each guest room
3. Auto court, motel, hotel, one space for each sleeping unit tourist home guest room, or suite
4. Hospital, nursing home, or One space for each 3 beds plus one medical institution providing additional space for each employee overnight care or treatment
5. Theater, auditorium, church, one space for each 4 seats or 1 for each or similar enclosed place 300 sq. ft. of assembly gross floor area
6. Stadium, sports arena, or one space for each 6 seats similar open assembly area
7. Library One space for each 300 sq. ft. of gross floor area
8. Dance hall, skating rink same as above
9. Bowling alley same as above
10. Medical or dental clinic same as above
11. Bank, business, or one space for each 400 sq. ft. of professional office with on-site gross floor area. customer services
12. Office not providing customer One space for each employee services on premises
13. Mortuary One space for each 4 seats in chapel
14. Warehouse, storage and One space for each 700 sq. ft. of wholesale business gross floor area.
15. Food and beverage place with One space for each 300 sq. ft. of sale and consumption on the gross floor space area plus 1 space premises for each employee
16. Retail store, supermarket, one space for each 400 sq. ft. of department store and personal floor area plus 1 space for each service shop employee.

- 17. Service and repair shop and one space for each 1,000 sq. ft. of Retail store handling bulky gross floor area plus 1 space for Merchandise such as automobiles, each employee Furniture and major appliances
- 18. Manufacturing uses, testing one space for each employee on the research, processing or shift, or one space per 700 sq. ft. of gross assembly uses floor area.
- 19. Roadside stands minimum of 4 spaces
- 20. Schools, grades 10 to 12 One space per employee plus 1 space for each 6 students

Section 4.200. Off Street Loading

Section 4.210. Policy

No building or structure subject to the use requirements of this section shall be erected, nor shall any such existing building or structure be altered In any district so as to increase its gross floor area to an amount exceeding 25% of Its existing gross floor area at the time of passage of this ordinance, nor shall a change of use occur without prior provisions for off-street loading space in conformance with the requirements of this section.

Section 4.220. Design Standards

Required off-street loading space shall be provided in berths which conform to the following minimum specifications.

- (1) Type "A" berths shall be at least 60 feet long by 12 feet wide by 15 feet high, (Inside dimensions), with a 60 foot maneuvering apron.
- (2) Type "B" berths shall be at least 30 feet long by 12 feet wide by 14 feet 6 Inches high, (Inside dimensions), with 30 foot maneuvering apron.

Section 4.230. Number of Required Spaces

The following numbers and types of berths shall be provided for the specified uses. The uses specified below shall include all structures designed, Intended or arranged for such use.

<u>Use</u>	<u>Aggregate Floor Area (sq. ft)</u>	<u>Berths Required</u>	<u>Type</u>
1. Freight terminals, industrial plants, manufacturing or wholesale establishments, warehouses	12,000 – 36,000	1	A
	36,000 – (100)60,000	2	A
	60,000 – 100,000	3	A
	each additional 50,000 or fraction thereof	1 additional	A
2. Auditorium, motel convention halls, or sport arenas	25,000 – 150,000	1	B
	150,000 – 400,000	2	B
	each additional 250,000 or fraction thereof	1 additional	B
3. Hospitals, nursing homes, sanitoria, convalescent homes	10,000 – 100,000	1	B
	Over 100,000	2	B

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and similar institutional uses			
4. Department stores, retail establishments, restaurants, funeral homes, and commercial establishments not otherwise specified	7,000 – 24,000	1	B
	24,000 – 50,000	2	B
	50,000 – 100,000	3	B
	Over 100,000		
	Each additional 50,000 or major fraction thereof	1 additional	B
5. Hotels or office buildings	25,000 – 40,000	1	B
	40,000 – 100,000	2	B
	Each additional 100,000 or major fraction thereof	1 additional	B
6. Schools	Over 14,000	1	B

Article 5. Nonconforming Uses or Structures. Exceptions and Variances

Section 5.010. Nonconforming Uses and Structures

- 1) A nonconforming use or structure may be continued but may not be altered or extended except as provided in (2). The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure, which conforms with respect to use, may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this ordinance.
- 2) An enlargement or an aggregate of separate enlargements not exceeding 25% In floor area as of the date of the use becoming nonconforming, may be permitted if it is determined that such enlargements (1) are desirable to the public convenience and welfare, (2) will not be more detrimental to the enjoyment and value of surrounding properties than the existing use or structure, and (3) in the case of nonconforming structures, will not cause the structure to deviate further from the standards of this ordinance. The procedures of Section 9.020 will apply to applications for enlargement of nonconforming uses or structures.
- 3) In cases where a Manufactured home is occupied as a single family dwelling in a district permitting single family dwellings, a nonconforming mobile home may be replaced providing:
 - a. The replacement Manufactured home has an equivalent living area or larger.
 - b. The Manufactured home is erected on a foundation constructed according to the requirements of the Washington County Uniform
 - c. Building Code and a building permit has been issued pursuant thereto.
 - d. Permissible age. The same standard shall be used as in Section 6.130(14),
- 4) If a nonconforming use is discontinued for a period of six months, further use of the property shall conform to this ordinance, except as noted In Section 5.010. (6).
- 5) If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.
- 6) If a nonconforming structure or a structure containing a nonconforming use Is destroyed by any

cause to an extent exceeding 50 percent of its fair market value as indicated by the records of the county assessor, and Is not returned to use within one year, a future structure or use on the site shall conform to this ordinance.

- 7) Nothing contained In this ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued by the City and construction has commenced prior to the adoption of this ordinance, provided the structure, If nonconforming or Intended for a nonconforming use, Is completed and in use within two years from the time the permit is issued.

Section 5.020. General Exceptions to Lot Size Requirements

If a property ownership, consisting of the entire contiguous land holdings held in a single ownership at the time of passage of this ordinance, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted In the zone subject to the other requirements of the zone, provided that if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirement of the zone.

The record of ownership as recorded. in the office of the county clerk at the time of passage of this ordinance shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provisions of this ordinance became applicable to the land concerned.

Section 5.030. General Exceptions to Front Yard Requirements

The following exceptions to front yard requirements are authorized for a lot in any zone.

- 1) If there are buildings on both abutting lots, which are within 100 feet of the Intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
- 2) If there is a building on one abutting lot which is within 100 feet of the lot, and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard depth.

Section 5.040. General Exception to Building Height Limitations

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and similar objects not used for human occupancy are hot subject to the building height limitations of this ordinance.

Section 5.050. Projections from Buildings

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues may project not more than 24 inches into a required yard.

Section 5.100. Authorization to Grant or Deny Variances

The Planning Commission may authorize a variance from the requirements of this ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be

granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions, which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance.

Section 5.110. Criteria for Granting a Variance

- 1) The Planning Commission may grant a variance to a regulation prescribed by this ordinance with respect to fences and walls, site area, width, frontage, depth, coverage, front yard, rear yard, side yards, outdoor living area, height of structures, distances between structures or landscaped areas as the variance was applied for or in modified form, if, on the basis of the application, Investigation and evidence submitted, the Commission makes the following findings:
 - a. That strict or literal Interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the regulation from which a variance is requested.
 - b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the Intended use of the property which do not apply generally to other properties located in the same zoning district, and which were not willfully created by the applicant; or
 - c. That strict or literal interpretation and enforcement of the specified regulation would derive the applicant of privileges enjoyed by the owners of other properties located in the same zoning district, and
 - d. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially Injurious to properties or improvements in the vicinity.
- 2) The Planning Commission may grant a variance to a regulation prescribed by this ordinance with respect to off-street parking facilities or off-street loading facilities as the variance was applied for or In modified form, if, on the basis of the application, Investigation and the evidence submitted, the Commission makes the findings prescribed in subsection (1) above and the following additional findings:
 - a. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.
 - b. That the granting of the variance will result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free of traffic on the streets.
 - c. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of the zoning ordinance.

Section 5.120. Procedure for Variance Application

The procedure for a variance shall be as provided in Article 9.

Article 6. Conditional Uses

Section 6.010. Authorization to Grant or Deny Conditional Uses

- (1) The purpose of conditional use review is to allow the proper Integration Into the community of

uses, which may be suitable only on certain conditions and at certain locations due to the special characteristics of these uses.

- (2) A conditional use listed in this ordinance may be permitted, enlarged or altered only upon authorization of the Planning Commission, In accordance with the standards and procedures of this article.

Section 6.020. Review Criteria for Conditional Use Applications

Conditional Use applications will be approved if the following criteria have been met:

- a. The proposed conditional use will comply with the requirements of the district within which the site is located and with the additional provisions of Article 4, except as may be provided for specific uses under the provisions of Section 6.100 through 6.140;
- b. The proposed use will not alter the overall character of the surrounding area, and will be compatible with its surroundings In terms of size, design, operating characteristics, and off-site impacts.
- c. The transportation system is capable of supporting the proposed use, and adequate access and parking space can be provided to accommodate traffic expected to be generated by the use;
- d. Public facilities (i.e. water supply, sewer service, storm water disposal, police and fire protection) are capable of supporting the proposed use.

Section 6.030. Procedure for Taking Action on a Conditional Use Application

1. The procedure for taking action on a conditional use application shall be as provided In Article 9.
2. In permitting a new conditional use or the alteration of an existing conditional use the Planning Commission may impose, in addition to those standards and requirements expressly specified in Section 6.100, additional conditions which the Planning Commission considers necessary to protect the best Interests of the surrounding area or the city as a whole. These conditions may include the following:
 - a. Increasing the required lot size or setback dimensions.
 - b. Limiting the height, size or location of buildings.
 - c. Controlling the location and number of vehicle access points.
 - d. Increasing the street width or requiring street dedication.
 - e. Increasing the number of required off-street parking spaces.
 - f. Limiting the number, size, location and lighting of signs.
 - g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - h. Regulating operating hours (time) for certain activities.
 - i. (Minimum landscape and) Regulating amount, type, location and maintenance of any required landscaping.
 - j. Specifying a time period within which the proposed use shall be developed.
 - k. Requiring preservation of natural features.
3. Approved conditional uses and uses existing prior to the effective date of this ordinance and now classified in this ordinance as a conditional use must apply for a new conditional use permit prior to any change in the use or In lot area, or alteration or enlargement of any structure. The Planning Director may waive this requirement for minor alterations, i.e. those that will have no impact on neighboring properties and/or the general public.

4. If the Planning Commission deems it necessary, it may require that the applicant for a conditional use furnish to the City a performance bond up to, and not to exceed, the value of the cost of the required improvements in order to assure that the conditions imposed are completed in accordance with the plans and specifications as approved by the Planning Commission, and that the standards established in granting the conditional use are observed.

Section 6.100. Standards Governing Specific Conditional Uses

In addition to or in lieu of the standards in Section 6.020, the following uses are to meet special conditions:

Section 6.110. Natural Resource Extraction

The use of premises in any district for the excavation, mining, extraction, or removal of stone, sand, gravel, clay or other natural deposits may only be authorized by the Planning Commission after public hearing. A conditional use may be authorized by the Planning Commission for such periods as it deems consistent with the public health, safety, and general welfare, and subject to the following provisions:

Plans submitted by the applicant for such excavations shall consist of a topographic map with such cross-sections as are necessary to adequately show the topography of the property in question, the extent of the area to be mined, any natural features and its relation to streets and surrounding property, together with a similar map showing the extent of the proposed excavation and the contours of the ground after the removal of the material. In addition, the applicant must submit a narrative describing any Impact the excavation may have on surrounding properties and by any improvements or natural features existing at or near the site. Issues to be addressed include noise, dust, traffic, water quality and other issues specific to the site.

A copy of each map and the narrative shall be submitted to the City Planner who shall report to the Planning Commission his findings regarding the effect of the intended excavations upon streets and other improvements, either existing or contemplated, and upon all properties within the area of Influence of such excavations.

Before approving an application, the Planning Commission may require that the applicant enter into an appropriate agreement with the City for reclamation of such areas to suitable use after completion of excavations, and that an adequate performance bond or other guarantee be furnished covering the cost of restoration or other work.

Section 6.120. Auto Wrecking Yards or Junk Yards

In addition to such other requirements as the Planning Commission may stipulate in authorizing auto wrecking yards or junk yards, the following provisions shall be imposed:

- (1) **Minimum lot area:** 1 acre.
- (2) **Minimum building setback distance:** Front yard, 30 feet; rear yard, 25 feet; side yard, 25 feet, except on corner lots, 30 feet.
- (3) **Minimum fence setbacks:** Front yard, 25 feet; rear yard, 5 feet; and side yard, 5 feet.
- (4) **Fences:**
 - (a) A sight-obscuring fence shall be constructed to completely enclose the wrecking or junkyard. The fence shall be painted one color and kept in good repair. It shall be the responsibility of the occupant to maintain the fence.
 - (b) Front yard fence height: Minimum height of 6 feet. However, when such front yard

is fronting on any State primary or secondary highway, such fence height shall be a minimum of 8 feet.

- (c) Side or rear yard fence height: Minimum of 6 feet.
- (5) Exterior storage
 - (a) All storage shall be within the fenced area.
 - (b) At no time shall any Items be piled higher than the fence.
- (6) Notwithstanding the above regulations, all auto wrecking yards and junk yards must comply with all State regulations pertaining to this type of use.

Section 6.130. Manufactured Home Park

Specific standards for the development of Manufactured Home Parks are included because a Manufactured Home Park is a unique type of residential use which deserves special consideration due to its impact unto the community, its roads and utilities. These standards are instead of the standards of section 6.020.

Minimum area. Three acres.

Access drives shall be provided to each Manufactured home space, shall be continuous unless provided with adequate turn-around area or cul-de-sac, and shall have minimum width of twenty (20) feet. Each park shall have a principal access drive of not less than thirty-six (36) feet for an exterior connection to the public street. Two (2), twenty (20) foot wide drives may be substituted for the thirty-six (36) foot drive provided they are limited to one-way traffic and parking is (restricted to one side) prohibited. All internal roads shall be paved.

Walkways, not less than two (2) feet in width, shall be provided from each Manufactured home space to service buildings and along least one side of all access drives and internal roads.

Perimeter treatment. Except as required for vision clearance, the outer perimeter of each park shall be improved with:

- a. A sight-obscuring fence or wall not less than five nor more than six feet in height;
- b. Maintained evergreen landscaping that is at least 10 feet in depth, will mature within three years, and reach at least five feet in height at maturity; or
- c. A combination of (a) and (b) above.

Occupied area surface treatment. Unless in conflict with state laws and regulations, all areas covered by Manufactured homes and accessory buildings shall be paved with asphalt or concrete, or covered with permanently contained crushed rock.

Interior landscaping: All open areas, except as otherwise specified herein, shall be suitably landscaped according to plans and specifications approved by the Planning Commission. Such areas shall be continuously maintained.

Each Manufactured home space shall be improved with one patio of concrete or other suitable impervious material, having a minimum area of one hundred fifty (150) square feet and one crushed rock or better surfaced mobile home pad having a minimum area equal to that of the Manufactured home which will be located on the space. In addition each mobile home site shall have one parking space, either a carport or paved parking area having a minimum area of 100 sq. ft.

A minimum of two hundred (200) square feet of recreation area for each Manufactured home space shall be provided in one or more locations within the Manufactured home park. The minimum size of each required recreation area shall be five thousand (5000) square feet.

A centralized storage area for boats, campers, camping trailers, and automobiles shall be provided in each Manufactured home park. Such storage area shall contain a minimum of one hundred sixty (160) square feet for each manufactured home space and be enclosed by a sight-obscuring fence. Roads,

carports, parking areas, yards and patios shall not be used for long-term parking or storage of trailers, boats, campers or other recreational vehicles.

Permanent accessory structures located within any Manufactured home space shall be used only as carports or for storage purposes. (Storage buildings shall have a maximum floor area of twenty-five (25) square feet). Carports shall not exceed eight hundred (800) square feet in area unless designed to serve two adjacent Manufactured home spaces in which case they may be sixteen hundred (1,600) square feet in area. Storage structures and carports shall be located not less than six (6) feet from any Manufactured home and shall be subject to all of the applicable permits and building codes of the City of Banks. A storage building (and carport) shall be provided on each Manufactured home space.

Signs are limited to one identification sign with a maximum area on one side of twelve (12) square feet. Such a sign may be indirectly illuminated, but shall not contain exposed neon or similar tubing and shall not flash, rotate, or move in any way. Design approval of the sign is subject to review of the Planning Commission to assure that it will be harmonious with the neighborhood.

All utilities, i.e., sewer, water, natural gas, electricity, telephone, and television cable shall be underground in locations approved the City Engineer. Each Manufactured home space shall be equipped with connections for running water, electricity and sanitary sewer.

Abandoned homes. All residents shall execute leases, which have been approved by the City and contain provisions for the assumption of possession of abandoned Manufactured homes by the Manufactured home park management.

Permissible age. Prior to location of a mobile home in a Manufactured home park, the owner or occupant shall establish to the satisfaction of the superintendent of building inspection that the Manufactured home is in a condition that conforms to one of the following construction standards:

- d. A Manufactured home constructed on or after September 1, 1969, shall conform either to standards In effect in Oregon at the time of construction or Oregon standards in effect at the time entry into the park is to occur. Units built between September 1, 1969 and June 15, 1976 shall exhibit the Oregon Department of Commerce Insignia of Compliance. Units built thereafter shall meet the H.U.D. Federal Manufactured Home Safety Standards dated June 15, 1976.
- e. Manufactured homes, constructed prior to September 1, 1969, shall be in a condition that is not less than the substantial equivalent of the above standards.

The services of an architect, a landscape architect and an engineer, all licensed to practice in Oregon, shall be employed in the preparation and execution of all plans. Upon proof by the applicant that the scope of the proposal does not require the services of an architect, the Planning Director may waive that requirement.

In the event of denial, applications may be resubmitted within one year of the denial, provided the Planning Director finds the denial was based on internal (on-site) factors and new plans have been submitted which are sufficiently modified to warrant consideration by the Planning Commission.

Notwithstanding the above regulations, Manufactured home parks must comply with all state regulations pertaining to this type of use.

An adequate number of fire hydrants shall be provided within the Manufactured home Park so that no mobile home space or structure within the park is more than 400 feet from a hydrant.

Standard streetlights shall be installed at intervals of no more than 200 feet along all access drives and internal roads.

Each Manufactured home space shall be legibly numbered so that it may be easily found by emergency vehicles.

Section 6.140. Home Occupations

Specific standards for home occupations in lieu of the conditional use criteria of section 6.020 are as follows:

- (1) No sign shall be used other than a nameplate not over two square feet in area.
- (2) There shall be no display that will indicate from the exterior that the building is used for any purpose other than a residence.
- (3) There shall be no outside storage of materials other than plant materials. No activities associated with the home occupation shall take place outdoors, with the exception of recreation in family day care.
- (4) The building shall retain the characteristics and appearance of a residence.
- (5) The home occupation shall not alter the residential character of the neighborhood.
- (6) There shall be no paid employees other than family members.
- (7) The activity shall occupy no more than one-quarter of the floor area of the primary structure, with the exception of family day care.
- (8) The maximum number of persons which may be cared for in family day care is five adults or twelve children.
- (9) Specifically prohibited, as a home occupation in a residential zone is the repair and assembly of all vehicles, equipment with an internal combustion engine, or large appliances.
- (10) Delivery or pickup to a home occupation may not be made by a large truck.

Article 7. Planned Unit Development

Section 7.110. Intent

The intent of this article is to provide a more desirable environment through the application of flexible and diversified land development standards following an overall site development plan. This overlay district is to provide for developments incorporating a single type or a variety of housing types and other uses, which are planned and developed as a unit. Such developments may consist of individual lots or of common building sites. Commonly owned land which is an essential and major element of the plan should be related to and preserve the long term value of the homes and other development, and should be designed so as to preserve existing natural features at the site.

Section 7.120. Standards

- (1) Planned Unit Developments shall be at least 5 acres in size.
- (2) Planned unit developments shall abut or have access to a minor arterial street and shall have minimal direct access to local roads.

Section 7.130. Procedure: Preliminary Site Development Documents

- (1) The applicant shall submit three copies of a preliminary site development plan to the Planning Director. This plan shall contain at least the following information:
 - (a) Existing and proposed land uses and densities and zoning.
 - (b) Building types, lot coverage, setbacks, existing easements.
 - (c) Plan of open or common spaces.
 - (d) Existing features of site and topography including fish and wildlife habitat, water features, significant vegetation.
 - (e) Proposed method and location of utilities service including sanitary sewer, storm

- drainage, and water supply.
- (f) Road and circulation plan of pedestrian, bicycle, and vehicular traffic including relationship to surrounding street system.
- (g) Date, north arrow and scale.
- (2) The applicant shall submit a preliminary written statement to the Planning Director. This statement shall contain at least the following information:
 - (a) Existing and proposed ownership pattern and legal description.
 - (b) General description of the type and character of the development and proposed name of the PUD.
 - (c) Operation and maintenance proposal.
 - (d) Description of waste disposal and storm drainage facilities and water supply system.
 - (e) General timetable of development and phasing.
 - (f) Names, addresses, and phone numbers of proposed design team and owners.
 - (g) Land use allocation by type and density including the amount of land for streets, open areas, parking, and residential, commercial and industrial use.
- (3) Planning Commission review of the preliminary site development plan shall be made within sixty (60) days of submission and recommendations for changes or modifications of the submitted preliminary plan given in writing to the applicant. The procedures and review criteria used shall be as for a conditional use application (Section 6.020 and Article 9). In addition, the development standards of Section 7.140 apply.
- (4) Approval in principle of the preliminary site development plan shall be limited to the preliminary acceptability of the land uses proposed and their inter-relationships and shall not be construed to endorse final approval of the plan, precise locations or mixes of uses, or engineering feasibility.
- (5) Following approval in principle of the preliminary site development plan, the applicant shall make changes as recommended by the Planning Commission and then within 24 months the applicant shall file a final development plan and program.

Section 7.140. Development Standards

- (1) Minimum site size. Planned Unit Developments shall be established only on parcels of land which are suitable for the proposed development and are of sufficient size to be planned and developed in a manner consistent with the purposes of this district, with a minimum site size of 5 acres.
- (2) Open space. Open space shall be provided in amounts adequate for the recreation and leisure use of the population occupying the Planned Unit Development. In residential PUD's, not less than 40% of the PUD area not in streets must be in private or common open space. In order to assure that open spaces will be permanent, restrictive covenants or dedication of development rights shall be required.
- (3) Density. To determine maximum permitted residential density for a Planned Unit Development, the following procedure is to be followed: Divide the net development area by the minimum lot size requirement of the zone district in which the planned unit development will be located. The net development area shall be the gross development area less areas set aside for non-residential uses and streets. Net development area does include areas set aside for parks, recreation, and open space.
- (4) Subdivision lot sizes. Minimum area, width, depth, and frontage requirements for subdivision lots in a Planned Unit Development may be less than the minimums set forth elsewhere in this

- Ordinance, provided that the overall density is in conformance with Section 7.140 (3), and that lots conform to the approved preliminary development plan.
- (5) Off-street parking. Off-street parking shall be provided in the amount of two (2) spaces per dwelling unit. Parking spaces shall conform to all provisions of Section 4.100 through 4.180 of this Ordinance.
 - (6) Signs. All signs of any type within a Planned Unit Development are subject to design review and approval of the Planning Commission. The Commission shall consider each sign on its merits based on its aesthetic impact on the area, potential traffic hazards, potential violation of property and privacy rights of adjoining property owners, and need for said sign.
 - (7) Setbacks and yard requirements. No structure shall be located closer than fifteen (15) feet from any public street within a Planned Unit Development. Other setbacks are to be determined by the Planning Commission where they are considered essential to the health, safety and public welfare. Those required by the Commission shall be recorded as part of the protective covenants as required by Section 1.160 (2).
 - (8) Streets and roads. Necessary streets and roads within the Planned Unit Development shall be dedicated to the public and constructed to standards determined by the Planning Commission and City Engineer.
 - (9) Circulation. A pedestrian and bicycle circulation system must be provided to facilitate movement within the PUD.
 - (10) Utilities. The developer is responsible for providing all necessary public or private facilities to the PUD constructed to City or Service District standards.
 - (11) Permitted uses. Permitted uses are those of the base zone. If the proposed development includes uses, which require conditional, use approval, then review of the conditional use application shall be included in the planned development application review. If a zone change is required to permit the proposed uses then the zone change application may be processed concurrently with the PD application at the request of the applicant. Otherwise, zone change approval must precede the planned unit development application.
 - (12) Other requirements. The Planning Commission and City Council may establish additional requirements, which it deems necessary to assure that any development conforms to the purpose and intent of this section.

Section 7.150. Procedure: Final Site Development Documents

- (1) Within 24 months of the effective date of the Planning Commission's decision concerning the preliminary site development plan, the applicant shall prepare and submit three copies of a final development plan containing at least the following elements:
 - (a) Development plan for the site in conformance with the preliminary site development plan and any conditions of approval.
 - (b) Contour map of the site showing existing grades at least two (2) foot contour intervals.
 - (c) Grading plan for the site showing future contours if existing grade is to be changed more than two (2) feet.
 - (d) Existing and proposed utility lines (storm and sanitary sewer, water, gas, etc.)
 - (e) Preliminary subdivision plans if property is to be subdivided.
 - (f) Location and dimensions of pedestrian ways, roads, malls, common open spaces, recreation areas, and parks.
 - (g) Location, dimensions, and arrangement of automobile off-street parking spaces including width of aisles, spaces, and other design criteria.

- (h) Architectural plans and elevations of typical structures.
- (i) Planting and landscaping plan for the site.

- (2) The final development plan will be approved by the planning director if it is In conformance with the approved preliminary plan and any conditions of the approval. The planning director shall refer the decision to the Planning Commission if there are substantive changes from the preliminary site development plan.

Section 7.160. Final Compliance Requirements

Development improvement prohibited pending compliance. No excavating, grading, construction, improvement or building, or permits therefore shall be authorized or issued within the planned unit development zone pending compliance with the following:

- a. Full compliance with all provisions of this article including execution and filing of all documents required herein.
- b. Compliance with the subdivision code, improvement ordinances, and building code of the City of Banks.
- c. Full compliance with the final development plan and program.

Filing of approved final plan and program. Following approval of the final development plan and program by the City Council, the owner-applicant shall file with the recorder of the City at Banks and the planning director of the City of Banks a conformed and approved final development plan and program together with all documents approved as to form by the city attorney relating to dedication, improvements, maintenance agreements, covenants, deed restrictions and bylaws of neighborhood associations, coops, and improvement of the district.

Changes to final development plan. Changes which alter or change dwelling unit density, ratio of number of different types of dwelling units, area and/or location of commercial and industrial uses, boundaries of the planned unit development, or location or area of open and recreational spaces shall be made in the form of a petition for approval of a new planned-unit development and shall be made in accordance with this article. Other changes may be submitted to the planning director in writing for approval and amended to the final plan and program. If the planning director determines that the other changes individually or cumulatively constitute a major departure from the approved final site development plan he/she may refer the request to the Planning Commission for approval.

Section 7.170. Expiration of Planned-Unit Development Approval

If substantial construction or development of the planned-unit development zone has not occurred within three years of the effective date of approval of the final PUD site development plan, or in accordance with a schedule for phased development approved as part of the final PUD development plan, the Planning Commission may initiate a review of the planned development district at a public hearing to determine whether or not its continuation in whole or in part is In the public interest, and if found not to be, shall recommend to the City Council that the planned-unit development district be removed, and necessary amendments to the zoning map be made In accordance with this code.

Section 7.180. PUD's Submitted Prior to 1989

Preliminary and final PUD site development plans approved prior to 1989 are extended for 2 years from the date of adoption of this section.

Article 8. Comprehensive Plan and Zoning Amendments

Section 8.010. Authorization to Initiate and Approve Amendments

An amendment to the Comprehensive Plan text or map, and/or to the text or zoning map of this title may be initiated by the City Council, by the Planning Commission, or by application of a property owner or his authorized agent. Such amendments may be necessary to continue to promote the public health, safety, convenience and general welfare under changing conditions. The City Council may grant a zoning amendment according to the provisions of this Article.

Section 8.020. Procedure

Unless part of a legislative action, the procedure for quasi-judicial comprehensive plan and / or zoning code text or map amendments shall be as specified In Article 9.

Section 8.030. Comprehensive Plan and Zoning Amendment Criteria

Quasi-judicial comprehensive plan and / or zoning amendment applications shall be approved if the following criteria have been met:

The proposed change is consistent with and supportive of the Comprehensive Plan Goals, Objectives, and Policies;

The proposed change is compatible with the surrounding existing and planned land use pattern;

Public facilities (i.e. transportation system, water supply, sewer service, storm water disposal, and police and fire protection) are capable of supporting the uses permitted in the proposed zone; and

The proposed change is consistent with the statewide planning goals.

Section 8.040. Record of Amendments

The City Recorder shall maintain records of amendments to the text and zoning map of the ordinance.

Section 8.050. Limitation on Replications

No application of a property owner for an amendment to the text of this Ordinance or to a zone boundary shall be considered by the City Council within the one-year period Immediately following a previous denial of such request, except the City Council may permit a new application if in the opinion of the City Council new evidence or a change of circumstances warrant it.

Article 9. Administrative Provisions

Section 9.010. Administrative Review of Building Permit

No permit shall be issued by the building official for the construction, reconstruction, alteration, or change of use of a structure or lot that does not conform to the requirements of this ordinance.

All uses and developments, other than single-family residences permitted outright in the district In which they are located, must be reviewed and approved by the Planning Director for compliance with the requirements of this ordinance. The Planning Director shall issue a decision within 15 days of receipt of a complete application, unless a variance, conditional use permit, zone change, or other land use approval is required.

Section 9.020. Procedures for Variance, Conditional Use, Zone Change, and Other Land Use Applications.

A property owner may initiate a request for a variance, conditional use, zone change, or other land use approval required by this ordinance, by filing an application with the City Recorder or Planning Director on a form prescribed by the Planning Commission.

If more than one land use approval is required for one development project, the applicant may apply for all required approvals at one time.

The application shall be accompanied by the drawings and statements as set forth in Section 9.030, and the fee as set forth in Section 9.040.

The Planning Commission shall schedule a public hearing to take place within 60 days of receipt of a complete application, following public notice procedures set forth in Section 9.050.

The Planning Director shall perform a review of the application according to the provisions of Section 9.060

The Planning Commission may recommend that the City Council approve, deny, or modify the application for a Conditional Use, or Plan / Zoning Change. The Planning Commission may recommend that the City Council attach such conditions of approval. The Planning Commission may approve, deny or modify an application for alteration and demolitions in the Historic Resource Overlay Zone, and for a variance, and may attach such conditions of approval as it finds necessary for implementing the purpose and provisions of this ordinance and of the Comprehensive Plan.

The Planning Commission may recess a hearing In order to obtain additional information or to serve further notice upon other persons or agencies it decides may have an interest in the application being considered. Upon recessing, the time, date and place when the hearing Is to be resumed shall be announced.

The Planning Commission must make a final decision on the date of the hearing, or the date of the final hearing if there has been a recess. If no decision is issued consistent with this provision the application shall be deemed approved.

At the next scheduled City Council meeting, the City Council shall hold a public hearing on the application. The Council may adopt or modify the recommendation of the Planning Commission. If the Council decision is different from the Planning Commission’s recommendation, the Council shall adopt findings justifying its decision.

Within five days after a decision has been rendered, the City Recorder or Planning Director shall provide the applicant and any persons requesting such notice with written notice of the decision of the Planning Commission or the City Council.

A land use approval shall become effective on the fifteenth date after the date of final decision by the Planning Commission, unless the decision is appealed as provided In Section 9.070.

Pursuant to ORS 227.178, the city shall complete final action on all land use actions, including local appeals, within 120 days of receipt of a complete application. The 120-day limit may be waved by the applicant in writing.

Section 9.030. Submittal Requirements

Applications for land use approvals must be accompanied by a written statement, which must include:

A description of the proposed development address, legal description and ownership of the property; name, address, and phone number of the applicant; the type of approval requested;

A discussion of how the application complies with the review criteria for that type of land use application;

A discussion of external impacts the proposed development may have on surrounding properties in

terms of noise, dust, traffic, storm drainage, waste disposal, etc; and

Such other information as may be required to understand the application

In addition, the applicant must submit site plans and drawings to scale showing the location and dimensions of the property and of existing and proposed structures; north arrow, scale; the relationship of the property to the surrounding area; the intended use of each structure; proposed parking areas, landscaping, access and circulation, signs, outdoor storage; and any natural features on the site.

Section 9.040. Filing Fees

The City Council shall establish by resolution, and may from time to time by resolution amend, a uniform schedule of fees to be paid at the time of filing any application requiring approval or action by the Planning Director, planning commission, or city council under the provisions of the zoning code. In like manner, the City Council shall establish the fees to be paid for filing notice of appeal under the provisions of this Code.

Such fees shall be for the purpose of helping to defray the costs of giving notice of hearing where required, and the expenses to the City in processing and investigating such applications and appeals. Copies of the fee schedule shall be kept at City Hall and shall be available for public inspection.

Section 9.050. Public Notice

A notice of public hearing on any land use application required according to Section 9.020(4) of this ordinance shall be posted at one or more locations within the City, including the City Hall, at least ten (~0) days prior to the date of the hearing.

In addition, a notice of hearing shall be mailed to owners of property (based on records at the Washington County Department of Assessment and Taxation) within two hundred (200) feet of the site of the application. The notice shall be mailed at least ten (10) days prior to the date of the hearing.

Additional notification methods as directed by City Council are also authorized.

The notice shall include;

- a. the property address and legal description,
- b. the criteria applicable to the request;
- c. the date, time and location of the public hearing; and
- d. a statement that failure to raise an issue in person or by letter precludes appeal, and that failure to specify to which criteria the comment is directed precludes appeal based on that criterion.

Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

Section 9.060. Investigation and Report by the Planning Director

The Planning Director shall review the application, coordinate and assemble comments from the public and applicable government agencies, and prepare a report summarizing the facts, findings and conclusions regarding compliance with the review criteria for the application, and including a recommended decision. The report shall be submitted to the Planning Commission and the applicant at least five days before the scheduled public hearing on the application, and shall be made available for use by any interested party.

Section 9.070. Appeals

- (1) Within fourteen days of the date of a final decision by the Planning Director or Planning Commission authorized by this ordinance, an appeal of the decision may be made to City

Council.

- (2) Appeals may be made by the applicant, the owner, or any other party who has participated in the public hearing either in person or in writing, by submitting comments on the specific land use application, directed at the applicable criteria.
- (3) Notice of the appeal shall be filed with the City recorder along with the fee prescribed according to Section 9.040. The notice of appeal must include the appellant's name, address, and phone number and relationship to the land use application, and a statement giving the reasons for the appeal.
- (4) The City Council shall schedule a public hearing on the appeal according to the procedural and notice requirements of Sections 9.020 and 9.050.
- (5) A land use decision shall not become effective until the termination of any local appeal pending against it.

Section 9.080. Time Limit on Land Use Approvals

Land use approvals, with the exception of zoning map or code amendments and planned unit developments, shall become void if within one year of the date of the final decision a building permit has not been issued and/or no substantial construction has taken place. The City Council may extend the validity of the approval for an additional period not to exceed one year on request.

If a decision is appealed beyond the jurisdiction of the City, the one-year expiration period will not begin until the appeal is terminated.

Section 9.090. Authorization of Similar Uses

The City Council may permit in a particular zone a use not listed in this Ordinance, provided the use is of the same general type as the uses permitted there by this Ordinance. However, this section does not authorize the permission in a zone where it is not listed of a use specifically listed in another zone, or which is of the same general type as uses listed in another zone.

(1) Building Permits:

- (A) The homeowner or his authorized representative shall obtain a certificate authorizing Washington County to issue a building permit for a new dwelling. Application shall be made at the City and shall include the following items:
 1. Plot plan showing the dwelling and all other structures, including all exterior dimensions; building elevations drawings for all sides; information describing roofing and siding materials, foundation support systems and materials.
 2. A written statement signed by the applicant pledging compliance with the terms set by the City of Banks and all other conditions of this zoning code Section 3.000 through Section 3.080.
 3. Permit filing fee.
- (B) An approved certificate to obtain a permit shall be issued within 10 days by the City of Banks after receipt of the required information indicated above.
- (C) The Certificate shall be denied when the applicant fails to provide the required information, and / or the proposed dwelling does not comply with the required codes specified herein.

(2) Occupancy requirements. Occupancy of the dwelling shall be governed by the building permit review procedure as administered by Washington County.

(3) Building Removal. If the dwelling or other structures are removed from the property and not replaced with another structure within six months as evidenced by a building permit,

the owner shall perform the following tasks unless otherwise authorized by the City of Banks:

- A. Remove any foundation and perimeter enclosures.
 - B. Remove all accessories associated with the dwelling unit.
 - C. Permanently disconnect and cap off all utilities including sewer, water, electricity, phone, cable television, etc. in the proper manner and time frame as may be specified by the utility agency.
 - D. In the event the owner fails to accomplish the required tasks as noted above, the City of Banks may perform such work and file a lien against the property for the cost to perform said work.
- (4) Building Abandonment. When a dwelling has been abandoned (not occupied) for a period of time which exceeds five or more years, the owner shall request an occupancy inspection and permit approved by the City building official prior to the dwelling being occupied again.

Section 9.100. Planning Commission (as amended January 18, 2002)

- 3) Planning Commission for the City of Banks shall consist of no less than *five and no more than seven* members appointed by the Mayor and confirmed by the City Council of Banks. *Voting* members of the Commission must reside within the City limits of Banks. Two *additional non-voting* members may reside outside the City of Banks, *in an advisory capacity*.
- 4) Planning Commission members are appointed for a term of three years. No member of the Planning Commission shall serve for more than two consecutive terms.
- 5) No more than two members of the Planning Commission may be engaged in buying, selling, or developing real estate for profit. No more than two persons shall be in the same occupation, business, trade, or profession.
- 6) *The Planning Commission will make decisions on land use plans and policies and their implementation, including land use applications. A representative from the Commission shall provide minutes of their last meeting and give a report on any decisions and activities to the City Council at the Council's monthly meeting. A notice for a candidate application to be a member of the Planning Commission shall be posted at City Hall and two or more other locations within the City. Application forms shall be made available at City Hall. All completed applications shall be submitted to the City Recorder and kept on file at City Hall. All the Mayor's appointments may be interviewed at the City Council's discretion prior to the City Council's confirmation vote.*
- 7) The Planning Commission shall elect a chairperson and vice-chairperson, who shall hold office at the pleasure of the Commission. The Commission shall appoint a Secretary who need not be a member of the Commission. The Secretary shall keep an accurate record of all Commission proceedings.
- 8) The Planning Commission shall meet at least once a month, at a time and place to be fixed by the Commission. All Commission meetings shall be open to the public. A notice and agenda of upcoming Commission meetings shall be posted at least twenty-four hours prior to the meeting at City Hall and at such other places as may be determined by the Commission.

Article 10. General Provisions

Section 10.010. Interpretation

Where a provision of this Ordinance is less restrictive than another ordinance or requirement of the city, the provision or requirements, which are more restrictive, shall govern.

Section 10.020. Severability

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

Section 10.030. Enforcement

- (1) **Inspection and Right of Entry.** Whenever they shall have cause to suspect a violation of any provision of the zoning regulations, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures prescribed In this ordinance, officials responsible for enforcement or administration of this ordinance, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant. No owner or occupant or agent thereof, shall, after reasonable notice and opportunity to comply, refuse to permit such entry.
- (2) **Abatement.** Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to the zoning regulations shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such.
- (3) **Legal Proceedings by City Attorney.** The city attorney, upon request of the mayor (City Manager), shall institute any necessary legal proceedings to enforce the provisions of this ordinance.
- (4) **Enforcement by Chief of Police.** The chief of police and his authorized representatives shall have the power, upon request of the mayor, to assist in the enforcement of the provisions of this ordinance.
- (5) **Suits in Equity to Enjoin Violations.** On direction of the designated city official, the city attorney may institute a suit in equity in the Circuit Court of the State of Oregon pursuant to the provisions of ORS 30.315 to enjoin the maintenance of any use, occupation, building or structure in violation of any provision of the zoning ordinance.
- (6) **Remedies - Cumulative.** It is the Intent of this ordinance that the remedies provided for in Section 10.030 (1) to (5) be cumulative and not mutually exclusive.

Section 10.040. Penalties

Violation of any provision of this ordinance is punishable upon conviction by:

- (1) A fine of not more than one hundred (\$100) dollars for each day of violation, where the offense is a continuing offense, but such fine may not exceed one thousand (\$1,000) dollars. A fine of not more than five hundred (\$500) dollars where the offense is not a continuing offense.