

# CHAPTER 153: LAND DEVELOPMENT

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## **GENERAL PROVISIONS**

### **§ 153.001 TITLE.**

This chapter shall be known as the Zoning, Subdivision, Partitioning and Land Development Ordinance of 1998 for the City of Prineville, Oregon.  
(Ord. 1057, passed 3-24-98)

### **§ 153.002 PURPOSE.**

The overall general purposes of this chapter are as follows: to implement applicable provisions of O.R.S. Chs. 92, 197, 215, 227 and other related statutes; to implement the applicable provisions of certain OAR's, statewide planning goals 1-14 as applicable, and applicable provisions from state agency plans, programs, policies and regulations; and, to implement the Prineville Urban Area Comprehensive Plan as it applies to the city. Relative thereto, the intent of this chapter is as follows: to encourage the most appropriate use of land, taking into account the various characteristics of different areas of the city; to determine the suitability of various areas for certain land uses, to conserve and stabilize the value of property by establishing objective development standards; to recognize the needs for economic enterprises in order to maintain a healthy and balanced economy; to facilitate the redevelopment and rehabilitation of certain areas; to aid in the provision of urban services, facilities and utilities water, sewer, solid waste disposal, schools, parks, fire and police protection; to lessen congestion by providing adequate transportation facilities for all modes of travel; to provide for adequate light and air by establishing reasonable setback requirements; to recognize the values of certain natural resources; to provide for the protection and preservation of significant open space, and other natural resources and features; to encourage the orderly growth of the city and provide an adequate supply of buildable land areas for residential, commercial, industrial and other land uses while maintaining the quality of life environment currently evident and desired; to maintain and to provide for the coordination of land use review actions among all affected parties; and, in general, to promote the public health, safety, convenience and general welfare of the city, and the residents therein.

(Ord. 1057, passed 3-24-98)

### **§ 153.003 CONSTRUCTION AND TERMINOLOGY.**

(A) Construction. Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular; the word “may” is permissive, and the word “shall” is mandatory; and the masculine shall include the feminine and neuter.

(B) Terminology.

(1) The word “city” shall mean the City of Prineville, Oregon. The words “City Council” and “Council” shall mean the City Council of Prineville. The words “City Planning Commission” and “City Commission” shall mean the City Planning Commission for Prineville as duly appointed by the City Council. The words “City Recorder,” “City Manager,” “City Planning Official or Director,” “Fire Chief,” “City Legal Counsel, City Counsel or City Attorney” and “City Public Works or Street Superintendent” shall mean the respective positions for the City of Prineville as applicable.

(2) The word “county” shall mean the County of Crook, Oregon. The words “County Court” and “Court” shall mean the county Court of Crook County. The words “County Planning Commission” and “County Commission” shall mean the County Planning Commission for the county as duly appointed by the County Court. The words “County Clerk,” “County Assessor,” “County Planning Official or Director,” “County Legal Counsel, County Counsel or County Attorney,” “County Roadmaster or Roadmaster” and “County Survey” or shall mean the respective positions for Crook County as applicable.

(Ord. 1057, passed 3-24-98)

#### **§ 153.004 DEFINITIONS.**

As used in this chapter, the following words and phrases, unless the context of this chapter requires or provides otherwise, shall have the meaning set forth herein. Words and phrases not defined herein shall have the meaning set forth in state statutes, state administrative rules, state planning goals, policies and other relevant local, state and/or federal regulations. Note: O.R.S.’s or O.A.R.’s set forth herein in parentheses “( )” are for reference information relative to the basis and/or source of the definition.

**ABUT.** Contiguous to; for example, two lots with a common property line, or two buildings with a common or immediately adjacent walls. For the purposes of this chapter, ABUT does not apply to buildings, uses, lots or parcels separated by a public right-of-way, river, stream channel or canal.

**ACCESS.** The right to cross between public and private property, allowing pedestrians and vehicles to enter and leave property.

**ACCESSORY USE OR STRUCTURE.** A use or structure, or a portion of a structure, the use of which is incidental and subordinate to the main use of the property or structure and located on the same premises as the main or primary use and/or structure.

**ADULT DAY CARE CENTER.** A facility where care is provided to adults for part of the 24 hours of the day in the home of the person providing the care.

**ADULT FOSTER HOME.** Any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage. “Provider” means any person operating an ADULT FOSTER HOME. “Provider” does not include the owner or lessor of the building in which the ADULT FOSTER HOME is located or the owner or lessor of the land on

which the adult foster home is situated unless the owner or lessor is also the operator of the ADULT FOSTER HOME. (O.R.S. 443.705(1) & (5)).

**AIRPORT or AIRCRAFT LANDING**

**FACILITY.** Any strip of land, landing area, runway, landing pad or other facility designed, used or intended to be used in connection with the landing or taking off of aircraft, including helicopters, and including all necessary taxiways, hangars and other necessary buildings and open spaces; also includes, but is not limited to, land used for existing commercial and recreational airport uses and activities and activities as described in O.A.R. 660-013-0100; for

example, emergency medical flight services; law enforcement and firefighting activities; search and rescue operations; flight instruction and ground training; aircraft maintenance, refueling, rental, service and sales; aeronautic skills training; aeronautic recreational and sporting activities; construction and maintenance of airport facilities; crop dusting activities; agricultural and forestry activities; and, activities, facilities and accessory structures provided and accessory to any of the foregoing uses and activities.

**ALLEY.** A street or right-of-way which affords only a secondary means of access to property, primarily to the back or side of properties otherwise abutting on a street.

**ALTERATION.** A change in construction or a change in occupancy. Where the term ALTERATION is applied to a change in construction, it is intended to apply to any change, addition or modification. Where the term is used in connection with a change in occupancy, it is intended to apply to changes in occupancy from one use to another.

**ALTERATION, STRUCTURAL.** A change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. A change in the external dimensions of a building shall also be considered a structural alteration.

**AUTOMOBILE SERVICE STATION.** A retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles; this may include petroleum products, tires, batteries, automotive accessories and replacement parts and items, washing and lubrication services, the performance of minor automotive maintenance and repair and the supplying of other incidental customer services and products.

**AUTOMOBILE WRECKING YARD.** A premises used for the storage and/or sale of used automobile or truck parts, and/or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof.

**AUTOMOBILE AND/OR TRAILER SALES AREA.** An open area, other than a street, used for the display, sale or rental of new and/or used automobiles or trailers, and where no repair work is done except minor incidental repair of units to be displayed, sold or rented on the premises.

**BASEMENT.** A story partly underground. A basement shall be counted as a story in building height measurement when the floor level directly above is more than six feet above the average level of the adjoining ground.

**BED AND BREAKFAST FACILITY.** Any establishment located in a structure designed for a single family residence, where the owner of the establishment resides in the structure, which has more than two rooms for rent on a daily basis to the public;

offers a breakfast meal as a part of the cost of the room; and serves one breakfast meal a day to guests, staff and owners only. **BREAKFAST MEAL** is the meal served to guests during the a.m. or morning hours each day (O.A.R. 333-17).

**BOARDING OR ROOMING HOUSE.** A building or portion thereof, other than a motel, restaurant or hotel, where meals or lodging or both are provided for compensation for more than five but not more than ten persons.

**BUILDING OFFICIAL.** That person or official who is responsible for the enforcement of the building codes, ordinances and regulations within the city and within the unincorporated area of the city's Urban Growth Boundary (UGB) area.

**CARPORIT.** A stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet(s) substituting for a wall, and used for sheltering motor vehicles, recreational vehicles or boats.

**CEMETERY.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes.

**CLINIC.** A place where professional services are provided, including but not limited to, medical, dental, chiropractics, counseling, optometry and other medical and social type services, and including single and/or multiple offices.

**CLINIC, ANIMAL.** A business establishment in which veterinary services are rendered for domestic pets and/or livestock on an outpatient basis. The facilities may be further classified as "small animal" (those limited to domestic pets), or "large animal" (those limited to domestic livestock).

**COMMUNITY WATER SYSTEM.** A domestic water supply source or distribution system which serves more than three single residences or other users for the purpose of supplying water for household uses, but is neither a municipal water supply system nor a public utility water supply system, and must have legal financial provisions for long-term operation and maintenance.

**COMMUNITY SEWAGE SYSTEM.** A sewage disposal system, which serves more than ten single residences or other users for the purpose of disposing of household liquid wastes, but is neither a municipal nor a public utility sewage disposal system, and must be approved by the appropriate government agency and must have legal financial provisions for long-term operation and maintenance.

**CONDOMINIUM.** A multiple family dwelling, duplex or single unit in which the dwelling units are individually owned, with each owner having a recordable deed enabling the unit to be sold, mortgaged or exchanged independently, under the provisions of applicable O.R.S.'s.

**CONTIGUOUS or CONTIGUOUS LAND.** Two or more parcels or units of land under a single ownership which are not separated by an intervening parcel of land under separate ownership, including limited access right-of-way which would deny access between the two parcels under single ownership, or parcels of land under a single ownership which are not separated by a river, public road, street or other public right-of-way.

**COTTAGE INDUSTRY.** A small business activity which may involve the provision of services or manufacture and sale of products, is carried on by a member of the family living on the premises with no more than one other person employed by the family member, and is not detrimental to the overall character of the neighborhood.

**CUSTOM SLAUGHTERING**

**ESTABLISHMENT or SLAUGHTER HOUSE.** A mobile or stationary establishment wherein meat animals, caused to be delivered by the owners thereof, are slaughtered for compensation, payment or remuneration of any kind, and are thereafter returned to the owner thereof or to the order of the owner. (O.R.S. 603.010(2)).

**DAY CARE CENTER.** A facility other than the residence of the day care provider, which receives three or more children for a part of the 24 hours of the day for the purpose of providing care and board apart from the children's parents or guardians.

**DENSITY, NET.** The number of dwelling units per unit of land expressed as the number of square feet of land per dwelling unit. The net density for any lot is computed by dividing the net square footage of the parcel by the number of dwelling units. The net square footage is determined by subtracting from the total square footage of the parcel that which is deemed necessary for street dedication and that area used for private streets and common driveways, if any.

**DEVELOPER.** Any person, corporation, partnership or other legal entity that creates or proposes to create a land development, subdivision, partitioning or other development including residential, commercial or industrial developments.

**DIKE.** A structure designed and built to prevent inundation of a parcel of land by water.

**DWELLING, FOUR-PLEX.** A detached building designed for occupancy by four families or households living independently of each other.

**DWELLING, MULTI FAMILY OR APARTMENT.** A building, or portion thereof, designed for occupancy by three or more families or households living independently of each other.

**DWELLING, SINGLE FAMILY.** A detached building containing one dwelling unit designed for occupancy by one family or one household only.

**DWELLING, TRI-PLEX.** A detached or semi-detached building containing three dwelling units and designed for occupancy by three families or households living independently of each other.

**DWELLING, TWO FAMILY or DUPLEX.** A detached or semi-detached building containing two dwelling units and designed for occupancy by two families or households living independently of each other.

**DWELLING UNIT.** A building, or portion thereof, consisting of one or more rooms including a bathroom and kitchen facilities, which are arranged, designed or used as living quarters for one family or one household.

**EASEMENT.** A grant of the right to use a parcel of land, or portion thereof, for specific purposes where ownership of the land or portion thereof is not transferred.

**FAMILY DAY CARE CENTER.** A day care facility where care is provided in the home of the provider to fewer than 13 children including children of the provider, regardless of full or part-time status.

**FAMILY or HOUSEHOLD.** An individual or two or more persons related by blood, marriage, legal adoption or guardianship, living together as one housekeeping unit in a dwelling unit using one kitchen, and providing meals, board and/or lodging to not more than three unrelated persons, living together as one housekeeping unit using one



kitchen, excluding servants; or a group of not more than five persons who need not be related by blood, marriage, legal adoption or guardianship living in a dwelling unit.

**FARMING or FARM USE.** As defined by O.R.S. 215.203 (2)(a), to include the use of land for the purpose of raising, harvesting or selling crops, for the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, honeybees or dairying and the sale of dairy products, or for any other agricultural or horticultural use, animal husbandry, timber propagation or harvest, or any combination thereof, including the preparation, processing and storage of products raised on the land, but not including the construction or use of dwellings and other buildings customarily provided in conjunction therewith.

**FENCE.** A protective or confining barrier constructed of wood, plastic, masonry or wire mesh. FENCE does not include hedges or other plantings.

**FENCE, SIGHT-OBSCURING.** A fence constructed, arranged and maintained in a manner as to obscure vision.

**FRONTAGE.** All property fronting on one side of a street and measured along the street line, between intersecting and intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, alley, city or district boundary.

**GARAGE, PRIVATE.** An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

**GARAGE, REPAIR.** A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

**GRADE, GROUND LEVEL.** The average elevation of the existing ground elevation, before or after construction, along the perimeter walls of a building. In case walls are parallel to and within five feet of a sidewalk, alley or other public way, the aboveground level should be measured at the elevation of the sidewalk, alley or public way.

**GUEST HOUSE.** A structure of no more than 450 square feet of site area used in conjunction with the main building for the temporary housing of nonpaying visitors and guests and containing no cooking facilities, unless otherwise approved by the city or other planning authority.

**HABITABLE FLOOR AREA.** Any floor area usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or any combination thereof. A floor area used only for storage purposes is not a HABITABLE FLOOR AREA.

**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 average height of the highest gable of a pitch or hip roof.

**HISTORICAL, GEOLOGICAL AND ARCHAEOLOGICAL BUILDINGS AND SITES.** Land, buildings and/or other natural or manmade features which have a special historical, geological or archaeological interest, represent one or more periods of time in the history of the city and adjoining areas, and have at least local significance.

**HOME OCCUPATION.** A lawful activity or occupation carried on by a resident or resident family of a dwelling as an accessory use within the same dwelling, or in an accessory building on the same property, with limited retail sales or sales accessory to

service, and with limited employees outside of the immediate family conducting the HOME OCCUPATION.

HOSPITAL. An establishment, publicly or privately operated, which provides sleeping and eating facilities to two or more non-related persons receiving medical, obstetrical or surgical care, and other healing, curing and/or nursing services over a period exceeding 24 hours.

HOTEL or MOTEL (TRAVELERS' ACCOMMODATIONS). A building, or portion thereof, designed and/or used for occupancy of transient individuals who are lodged with or without meals. (O.R.S. 446.310)

INTEREST. Includes a lot or parcel, and a share, undivided interest or membership which includes the right to occupy the land overnight, and lessee's interest in land for more than three years or less than three years of the interest may be renewed under the terms of the lease for a total period more than three years. Does not include any interest in a condominium or any security interest under a land sales contract, trust deed or mortgage, and does not include divisions of land created by lien foreclosure or foreclosures of recorded contracts for the sale of real property.

JUNK. Means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles or appliances, or motor vehicle parts, iron, steel or other old or scrap ferrous, or nonferrous material, metal or nonmetal materials. (O.R.S. 377.605(5))

JUNK OR WRECKING YARD. Any property or establishment where a person(s) is engaged in breaking up, dismantling, sorting, storing, distributing, buying or selling scrap or waste materials, or any establishment or place of business where there is accumulated on the premises eight or more motor vehicles or an equivalent volume of junk, that is maintained, operated or used for storing, keeping, buying or selling of junk, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities. (O.R.S. 377.605(6))

KENNEL. A lot, building or premises in or on which four or more dogs, cats or other animals at least four months of age are kept commercially for board, propagation, training or sale.

LANDSCAPING. The total ground area of a lot not covered by permanent structures, except areas which may be covered by projections from buildings, that include a combination of any of the following materials: living plant material such as trees, shrubs, groundcover, flowers and lawn, including native vegetation; and nonliving materials such as benches, walkways and courtyards, consisting of brick, decorative rock or other decorative materials. Does not include areas surfaced solely for the purpose of off-street parking and loading.

LIVESTOCK. Domestic animals of types customarily raised or kept on farms for profit or other purposes, and includes horses, mules, asses, cattle, sheep, swine, goats, llamas and poultry, including turkeys, of any age or sex. (O.R.S. 599.205) Does not include exotic animals as defined by O.R.S. 609.305; for example, any lion, tiger, leopard, cheetah, ocelot or any other cat not indigenous to Oregon, except the species *Felis catus* (domestic cat); any monkey, ape, gorilla or other nonhuman primate; any wolf

or any canine not indigenous to Oregon, except the species *Canis familiaris* (domestic dog); and, any bear, except the black bear.

**LIVESTOCK FEEDING YARD.** An enclosure designed or used for the purpose of the concentrated feeding or fattening of livestock for marketing.

**LIVESTOCK AUCTION MARKET or SALES YARD.** Any place of business to which the public may consign livestock for sale by auction open to public bidding or sold on a commission basis, but, specifically does not include breed or livestock associations operating subject to and in compliance with the provisions of the Oregon Nonprofit Corporation Law (O.R.S. 61.005 to 61.215), FFA and 4H groups, auction sales conducted in conjunction with the County Fair or other fairgrounds approved events or private fairs or auctions by or for a person on the premises of the person. (O.R.S. 599.205) (6))

**LOADING SPACE.** An off-street space within a building or on the same lot with a building, for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials, and which space has direct access to a street or alley.

**LOT.** A unit of land (a plot, parcel or tract of land) that is created by a duly platted and approved subdivision or partitioning of land, or a parcel or tract or contiguous parcels or tracts of land under a single ownership on or before the effective date of this chapter; the lot which is or may be occupied by principal and accessory structures together with the yards or open spaces required by this chapter, and which has legal access to a public right-of-way, and exists as a unit under an ownership of record. (O.R.S. 92.010)

**LOT, CORNER.** A lot abutting on two or more streets, other than alleys, at their intersection; provided the angle of intersection of the abutting streets does not exceed 135°.

**LOT, THROUGH OR DOUBLE FRONTAGE.** A lot having frontage on two parallel or approximately parallel streets other than alleys.

**LOT AREA.** The total horizontal net area within the lot lines of a lot to mean that square footage of a lot that is free from public and private road rights-of-way or easements for access, and river or stream channels.

**LOT COVERAGE.** The percentage of the total lot area covered by buildings, including covered parking areas.

**LOT DEPTH.** The average horizontal distance between the front and rear lot lines.

**LOT LINE.** The property line bounding a lot.

**LOT LINE, FRONT.** The lot line separating a lot from a street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

**LOT LINE, REAR.** The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other odd-shaped lot, a line ten feet in length within the lot, parallel to and at a maximum distance from the front lot line.

**LOT LINE, SIDE.** Any lot line other than a front or rear lot line bounding a lot.

**LOT WIDTH.** The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**MAINTAIN.** To allow to exist. (O.R.S. 377.605(7))

MANUFACTURED DWELLING. Except as may be additionally defined for the purposes of this chapter, manufactured dwelling means the following:

(1) RESIDENTIAL TRAILER. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

(2) MOBILE HOME. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(3) MANUFACTURED HOME. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. (O.R.S. 446.003(26)(a))

(4) Does not mean any building or structure subject to structural specialty code adopted pursuant to O.R.S. 455.100 to 445.450 or any unit identified as a recreational vehicle by the manufacturer.

(5) For the purposes of this chapter, it shall be immaterial whether the units or components thereof are placed upon property for a temporary, semi-permanent or permanent residence, or that the wheels are removed and the unit or component(s) are supported upon footings or a foundation.

(6) This definition does not include travel trailers, camping trailers, motorized homes or campers, pickup coaches or other recreational type vehicles.

MANUFACTURED DWELLING OR MOBILE HOME PARK. Any place where four or more manufactured dwellings or structures 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 or lease space or keep space for rent or lease to any person for a charge or fee to be paid for rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of the person(s). Manufactured dwelling park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved as a subdivision permitting manufactured dwellings at the time of platting and approved by the city pursuant to provisions adopted pursuant to O.R.S. 92.010 to 91.190, or if an amendment to the approval of the subdivision for manufactured dwelling use is subsequently granted by the city.

MANUFACTURED DWELLING SUBDIVISION. A subdivision intended to be occupied primarily or exclusively by manufactured dwellings and so approved at the time of platting.

MODULAR OR PREFABRICATED HOME. A prefabricated, sectional or factory constructed dwelling unit manufactured off-site, normally constructed in two or more sections or components for assembly on a permanent foundation as a permanent residential structure, and when completed is essentially indistinguishable from a

conventionally constructed home and conforms to the current edition of the State of Oregon One and Two Family Dwelling Code.

**MOTEL.** A building, or group of buildings, on the same lot or parcel containing motel rental units for rental to transients and consisting of individual sleeping quarters with or without cooking facilities which are designed, intended or used primarily for the accommodation of transients and travelers, and shall include hotels and inns.

**MUNICIPAL WATER SYSTEM.** A domestic water supply source and distribution system owned and operated by a city or a county; or owned and operated by a special district or other public corporation which has independent tax-levying powers to support the system and which supplies water to a total of 1,000 or more households.

**MUSEUM.** Includes any collection of archaeological specimens, artifacts, pioneer relics, articles, documents and other things of historical, scientific or artistic import that are assembled, displayed, preserved and protected for the benefit of the public, for educational and scientific purposes or to commemorate the occupation and development of the area or the Pacific Northwest region, and the structure or structures housing the collection(s). (O.R.S. 358.310(2))

**NATURAL AREA.** Includes land and water that has substantially retained its natural character and land and water that, although altered in character, is important as habitats for plant, animal or marine life, for the study of its natural, historical, scientific or paleontological features, or for the appreciation of its natural features, and is so designated by the Comprehensive Plan either by Plan policy or Map designation.

**NATURAL HAZARD AREA.** An area that is subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ground water, flash flooding, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to a local or regional area, and are so designated or identified by Plan policies or Map designations.

**NATURAL RESOURCES.** Air, land and water and the elements thereof which are valued for their existing and potential usefulness to man.

**NEW CONSTRUCTION.** Any structure for which the “start of construction” commenced on or after the effective date of this chapter.

**NONCONFORMING USE OR STRUCTURE.** A lawful existing use or structure at the time this chapter or any amendments hereto become effective which does not conform to the requirements of this chapter as amended or to the zone in which it is located.

**NURSERY, DAY.** An institution, establishment or place in which are commonly received at one time three or more children not of common parentage under the age of 14 years for a period or periods not exceeding 12 hours for the purpose of being given board, care and training apart from parents or guardians for compensation or reward.

**NURSING OR CONVALESCENT HOME.** Any home, institution or other structure maintained or operating for the nursing and care of four or more ill or infirm adults not requiring hospitalization.

**OPEN SPACE.** Consists of lands used for agricultural or forest uses, and any land area that would if preserved and continued in its present use conserve and enhance natural or scenic resources; protect air or streams or water supply; promote conservation

of soils, wetlands or marshes; conserve landscaped areas such as parks, open recreation areas, golf courses and similar areas that reduce pollution and enhance the value of abutting or neighboring property; enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, natural reservations or other open space; enhance recreation opportunities; preserve historic, geological and archeological sites; promote orderly urban development; minimize land use conflicts; and maintain quality living conditions.

**OUTDOOR MERCHANDISING.** The sale or display for sale of merchandise outside of an enclosed building space; including sales which are transacted through an open window or door; does not include incidental, infrequent garage, patio or yard sales.

**OWNER.** The owner of the title to real property or the authorized agent thereof, or the contract purchaser of real property of record as shown on the last available complete county tax assessment roll, County Clerk's records and/or City Recorder's records.

**PARKING AREA, PRIVATE OR PUBLIC.** Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated or otherwise identified; in the case of a private parking area for use by the tenants, employees or owners of the property for which the parking area is required by this chapter and not open space for use by the general public; and, in the case of a public parking area, for use by the general public, either free or for remuneration, and may include parking lots which may be required by this chapter for retail customers, patrons and clients.

**PARKING SPACE.** A clear, off-street area for the temporary parking or storage of one automobile, having an all-weather surface and a width of not less than eight and one half feet when within a building or structure; with an area of not less than 190 square feet in area; deviations are allowed when in compliance with applicable provisions set forth in § 153.080 et seq. **PARKING SPACES** shall have easy access to a street or alley by a driveway having an all-weather surface.

**PERSON.** Every 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.

**PLANNED UNIT DEVELOPMENT or PLANNED COMMUNITY.** The development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not necessarily correspond in lot size, bulk or type of dwelling, density, lot coverage or required open space to the standard regulations otherwise required by this chapter. A **PLANNED COMMUNITY** means any subdivision which results in a pattern of ownership of real property and all the buildings, improvements and rights located on or belonging to the real property in which there is a homeowners association responsible for the maintenance, operation, insurance and taxes, relating to any common property of the **PLANNED COMMUNITY** and/or for the exterior maintenance of any property that is individually owned; and owners of individual lots, by virtue of their ownership, automatically are members of the homeowners association and assume liability for membership fees. (O.R.S. 94.550)

**PLAT.** A final map, diagram, drawing, repl at or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

**PRIMARY, PRINCIPAL OR MAIN USE.** The first use to which property is or may be devoted, and that use to which all other uses on the premises are derived as accessory or secondary uses. As used relative to dwelling units, the primary dwelling shall be the first dwelling unit to be located on a specific lot or parcel.

**PUBLIC NEED.** An identifiable and measurable public benefit which accrues to the community as a whole.

**PUBLIC OR SEMI-PUBLIC USE.** A use owned and operated by a public, governmental or nonprofit organization for the benefit of the public in general. This does not include landfill sites, solid waste disposal sites, garbage dumps, recycling facilities, quarry sites or utility facilities.

**PUBLIC UTILITY WATER SYSTEM.** A domestic water supply source and distribution system supplying water for household uses, owned and operated by a person subject to regulation by the Public Utility Commissioner of Oregon and supplying water to a total of 500 or more households.

**PUBLIC WATER SYSTEM.** A water system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves at least 25 individuals.

**RECREATION CAMP, RESORT or PARK.** An area devoted to facilities and equipment for recreational purposes, including swimming pools, tennis, basketball and volleyball courts, sports fields, playgrounds, picnicking areas and other similar uses, whether the use of the area is limited to private membership or whether open to the public upon payment of a fee, or an area designated by the landowner for picnicking or overnight camping and offered to the general public, whether or not a fee or charge is made for the accommodations.

**RECREATION VEHICLE.** A vacation trailer or other unit with or without motive power, which is designed for human occupancy and is intended to be used temporarily for recreation, vacation, seasonal or emergency purposes, but not for residential purposes, is equipped with plumbing, sink and/or toilet and has a gross floor space not exceeding 400 square feet in the set-up mode; includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers and any other vehicle converted for use as a recreational vehicle. (O.R.S. 446.003(36))

**RECREATION VEHICLE PARK, RECREATION PARK or CAMPGROUND.** Any area designated by the person or party establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. Includes, but is not limited to, areas open to use free of charge or through payment of a tax or fee, or by virtue of rental, lease, license, membership, association or common ownership, and further includes, but is not limited to, those areas divided into two or more lots, parcels, units, spaces or other interests or designations for purposes of the use. Includes the facilities and spaces for tents, tent vehicles, camping vehicles or recreation vehicles of any type.

**RESIDENTIAL CARE.** Services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

**RESIDENTIAL CARE FACILITY.** A facility that provides, for six or more physically disabled or socially dependent individuals, residential care in one or more buildings on contiguous properties.

**RESIDENTIAL FACILITY.** A residential care, residential training or residential treatment facility licensed or registered by or under the authority of the Department of Land Conservation and Development, as defined in O.R.S. 443.400, under O.R.S. 443.400 to 443.460 or licensed by the state Office for Services to Children and Families, under O.R.S. 418.205 to 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. Does not include a residential school, state or local correctional facilities, a nursing home, a hospital, a place primarily engaged in recreational activities, a foster home, a place providing care and treatment on less than a 24-hour basis, or a child-caring agency or residential school or other organization certified or licensed by the Children's Services Division under O.R.S. 418.205 to 418.327.

**RESIDENTIAL HOME.** A residential treatment or training or an adult foster home, licensed by or under the authority of the state Mental Health and Development Disability Services Division or the Senior and Disabled Services Division or the office of Alcohol and Drug Abuse Programs, as appropriate, under O.R.S. 443.400 to 443.825, a residential facility registered under O.R.S. 443.480 to 443.500 or an adult foster home licensed under O.R.S. 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

**RESIDENTIAL TRAINING FACILITY.** A facility that provides, for six or more mentally retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties. (O.R.S. 443.400(7))

**RESIDENTIAL TREATMENT FACILITY.** A facility that provides, for six or more mentally, emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties. (O.R.S. 443.400(9))

**RESIDENTIAL TREATMENT HOME.** A facility that provides, for five or fewer mentally, emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties. (O.R.S. 443-400(10))

**RESIDENTIAL USE.** A structure or use for occupancy as a human dwelling or lodging place such as single family, two family and multi family dwellings; duplexes; apartments; boarding, lodging or rooming houses; mobile homes and mobile home parks; and labor camps.

**RESOURCE CAPABILITY OR CAPACITY.** A use or activity that is consistent with the resource capabilities or capacities of the area when either the impacts of the use on wildlife species and habitats, riparian habitats, waterways, wetlands, biological productivity and water quality are not significant, or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner



which conserves long-term renewable resources, natural biological productivity, recreation and aesthetic values.

**RESTAURANT.** Any establishment where food or drink is prepared for consumption by the public or any establishment where the public obtains food or drink so prepared in form or quantity consumable then and there, whether or not it is consumed within the confines of the premises where prepared, and also includes establishments that prepare food or drink in consumable form for service outside the premises where prepared, but does not include railroad dining cars, bed and breakfast facilities or temporary restaurants as defined in division (2) of this definition.

(1) **LIMITED SERVICE RESTAURANT.** A restaurant serving only pre-wrapped sandwiches or a single dish or food product and nonperishable beverages.

(2) **TEMPORARY RESTAURANT.** Any establishment operating temporarily in connection with any fair, carnival, circus or similar public gathering or entertainment, food product promotion or any other event where food is prepared or served for consumption by the public. **TEMPORARY RESTAURANT** does not include the following:

(a) An establishment where food is prepared and served by a fraternal, social or religious organization only to its own members and guests;

(b) An approved school lunchroom where food is prepared and served for school and community activities, where the preparation and service are under the direction of the school lunchroom supervisor; and,

(c) A food product promotion where only samples of a food or foods are offered to demonstrate the characteristics of the food product (for the purposes of this subdivision a "sample" shall not include a meal, an individual hot dish or a whole sandwich).

**RESTORATION.** Revitalizing, returning or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, that have been diminished or lost by past alterations, activities or catastrophic events.

**RETIREMENT CENTER.** A building or group of buildings containing separate dwelling units designed for and occupied principally (at least one occupant of each dwelling unit) by persons over the age of 60 years; excluding convalescent and nursing care as a function of the center.

**RIGHT-OF-WAY.** That area between the boundary lines of a street, road or other easement.

**RIPARIAN.** Of, or pertaining to, or situated on the edge of the bank of a river, stream or other body of water (Webster). As defined by O.R.S. 308.792 (regarding lands eligible for special tax assessments.) **DESIGNATED RIPARIAN LAND** means the beds of streams, the adjacent vegetation communities and the land thereunder, which are predominantly influenced by their association with water, not to extend more than 100 feet landward of the line of nonaquatic vegetation, however, only the lands zoned as forest or agricultural lands outside of Urban Growth Boundaries (UGB's) shall qualify for special tax assessment (O.R.S. 308.795(2)(a))

**ROAD or STREET.** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to the land in conjunction with the use of the land for forestry, mining or agricultural purposes. (O.R.S. 92.010(13))

**ALLEY.** A narrow street through a block primarily for vehicular service access to the back or side of properties abutting on another street.

**ARTERIAL.** A street of considerable continuity which is primarily a traffic artery for intertransportation among large areas, and so designated by the Comprehensive Plan as may be amended.

**BICYCLE ROUTE.** A right-of-way for bicycle traffic.

**COLLECTOR.** A street supplementary to the arterial street system and a means of intertransportation between this system and small areas; used to some extent for through traffic and to some extent for access to abutting properties and so designated by the Comprehensive Plan as may be amended.

**CUL-DE-SAC. (DEAD END STREET).** A short street having only one end open to traffic and being terminated by a vehicle turnaround.

**HALF STREET.** A portion of the width of a street usually along the edge of a subdivision, where the remaining portion of the street could or is planned to be provided for in another subdivision adjacent thereto.

**LOCAL STREET.** A street intended primarily for access to abutting properties.

**MARGINAL ACCESS STREET.** A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

**STUBBED STREET.** A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or development on adjacent lands.

**ROADWAY.** That portion of a street or road right-of-way developed for vehicular traffic.

**ROOF LINE.** The line which marks the highest point of the vertical front of a building in the case of a false front, or the line where the roof is joined to the vertical front wall of the building in other cases.

**SCALE.** The relationship in size between one building or use and another.

**SCENIC AREA OR RESOURCE.** Land or other natural features that are valued for their scenic and aesthetic values and appearance, and are designated as a scenic resource by the Comprehensive Plan.

**SCHOOL.** Includes kindergarten, primary, elementary, junior or high school and college. Includes public, private or parochial schools of all grade levels, including higher and vocational education and training, but not a nursery or day nursery school.

**SETBACK (YARD).** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this chapter.

**FRONT SETBACK.** A setback between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building.

**REAR SETBACK.** 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.

**SIDE SETBACK.** A setback between the front and rear yards measured horizontally at right angles from the side lot line to the nearest point of a building.

**STREET SIDE.** A setback adjacent to a street between the front setback and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.

**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, business or service, excluding house numbers. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.

**SIGN, ADVERTISING.** A sign which directs attention to a business, product, activity or service which is not necessarily conducted, sold or offered upon the premises where the sign is located.

**STABLE, PRIVATE.** A detached accessory building for the keeping of horses owned only by the occupants of the premises and which are not kept for remuneration or profit.

**STABLE, PRIVATE COMMERCIAL.** A private stable which is maintained by the property owner, lessee or renter, and which is available for the keeping of horses not owned solely by the occupants of the premises whether or not for remuneration or profit.

**STABLE, PUBLIC.** A stable other than a private stable that is maintained by a public, semi-public or nonprofit organization.

**START OF CONSTRUCTION.** The first placement of permanent construction of a structure (other than a manufactured dwelling) on a site, such as the pouring of slabs or footings or any work beyond the initial site preparation, such as clearing, grading and filling; also does not include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; also does not include the installation on the property of accessory buildings such as garages, sheds or similar buildings or structures not occupied as dwelling units or not a part of the main structure. For a structure (other than a manufactured dwelling) without a basement or poured footings, the **START OF CONSTRUCTION** includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured dwellings not within a manufactured dwelling subdivision or manufactured dwelling/mobile home park, the **START OF CONSTRUCTION** means the date on which construction of facilities for servicing the site on which the manufactured dwelling is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

**STORY.** That portion of a building included between a floor and the ceiling above it which is six feet or more above the grade.

**STORY, HALF.** A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls, are not more than two feet above the floor of the story.

**STRUCTURE.** That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a ground location.

**SUBDIVIDED LAND or SUBDIVISION.** Improved or unimproved land or lands divided, or created into interests or sold under an agreement to be subsequently divided or created, immediate or future, into 11 or more

undivided interests or four or more lots, parcels or other interests within a calendar year when the area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of the year. Does not include the sale of a lot in a recorded subdivision or an approved partition even though the seller may have owned other contiguous lots or property prior to the sale; the lot or lots, however, must be sold as platted and recorded.

**TIMESHARE CONDOMINIUM or TIMESHARE ESTATE.** A condominium and/or other development in which units are individually owned by a family or group of persons for a variable amount of time during the year, and in which part or all of the units may be available to transients or travelers for rent or on an exchange basis. For the purposes of this chapter, a **TIMESHARE CONDOMINIUM OR ESTATE** unit shall be considered as a motel and/or subdivision, and shall also be subject to approval in accordance with O.R.S. 94.803.

**TRANSFER STATION.** Shall be as defined pursuant to state law.

**TRANSIENT MERCHANT, BUSINESS OR COMMERCIAL ENTERPRISE.** A person, business or other enterprise that travels from place to place, either carrying their goods with them, selling and delivering at the same time, or not carrying goods but taking orders for future delivery, or purchasing goods for resale or processing off-site. Includes those who occupy a temporary fixed location, selling and delivering from stock on hand, doing business in much the same manner as a permanent business does or might be expected to, with the principal difference being the temporary nature of the business location or type of activity.

**TRAVELERS' ACCOMMODATIONS.** Any establishment having rooms or apartments rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities.

**UNIQUE RESOURCE.** Land or buildings which have a special character or aesthetic interest, irrespective of age, including the type or method of construction or artistic value, and are so designated by the Comprehensive Plan.

**URBAN SERVICES.** Sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

**USE.** The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

**UTILITY FACILITY.** Any major structure owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its products or for the disposal of cooling water, waste or byproducts, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding sewer, water, gas, telephone and power local distribution lines and similar minor facilities allowed in any zone.

**VISIBLE.** Capable of being seen without visual aid by a person of normal visual acuity.

**VISION CLEARANCE AREA.** A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in this chapter. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides.

Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (O.R.S. 197.015.21)

(Ord. 1057, passed 3-24-98)

**§ 153.005 COMPLIANCE.**

A lot or parcel may only be used and a structure, or part of a structure, may only be constructed, reconstructed, altered, occupied or used as permitted by this chapter. No lot or parcel area, yard or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required by the provisions set forth in this chapter.

(Ord. 1057, passed 3-24-98)

**§ 153.006 CITING.**

This chapter may be so cited, or may be cited as "this chapter" and shall have the same force and effect as any city ordinance, resolution or other regulation.

(Ord. 1057, passed 3-24-98)

**§ 153.007 EXISTING AGREEMENTS AND PERMITS.**

This chapter does not repeal, abrogate or impair any existing easements, covenants, deed restrictions or permits such as preliminary subdivision plats and partitioning approvals, conditional use permits, nonconforming use permits, temporary use permits, special use permits, special exceptions or building permits issued or effective (and still valid) prior to the date of adoption hereof.

(Ord. 1057, passed 3-24-98)

**§ 153.008 ZONING/OTHER DEVELOPMENT PERMIT APPROVAL.**

Prior to the construction, alteration, reconstruction, expansion or change of use of any structure, lot or parcel for which a permit or other land development approval is required by this chapter, the permit or approval shall be obtained from the city or the designated official thereof prior to the construction, alteration, reconstruction, expansion or change of use.

(Ord. 1057, passed 3-24-98)

**§ 153.009 COMPLIANCE WITH OTHER REGULATIONS.**

No permit or approval required or authorized by this chapter shall be issued or given final approval unless it is found that the use will be in compliance with all local, county, state and/or federal air, water, solid waste and noise pollution regulations and with other regulations such as access control, signs and the like applicable thereto.

(Ord. 1057, passed 3-24-98)

**§ 153.010 APPLICABILITY OF CURRENT REGULATIONS.**

An application for any use or activity requiring a permit or approval by any city land use document, ordinance or regulation, shall be processed and reviewed in accordance with the standards and criteria effective at the time the application was submitted providing that the initial application was complete or completion was accomplished in a timely manner.

(Ord. 1057, passed 3-24-98)

**§ 153.011 INTERPRETATION.**

Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provisions of this chapter, or by any other city ordinance, resolution, regulation, policy or document, the provisions which are more restrictive shall govern.

(Ord. 1057, passed 3-24-98)

**§ 153.012 CONSOLIDATED PERMIT PROCEDURE.**

All applications or permit processes required by this chapter and other city planning ordinances, documents or regulations for a specific single land use development or use may be consolidated into a single permit processing procedure, including the public hearings, public notices and City and/or County Planning Commission(s) and/or City Council and/or County Court action requirements. For example, for a specific land use development proposal which may require a zone change (map or text amendment), a conditional use permit, a dimensional or area variance and a partitioning, all of these required permits and the respective hearing and notice requirements therefor may be consolidated into a single public hearing process, a single public notice and a single decision and order action record. Notice of the consolidated process option shall be given to the applicant, and upon request thereby, such a process shall be utilized.

(Ord. 1057, passed 3-24-98)

Statutory reference:

Application for permit or zone change, see O.R.S. 227.175

**§ 153.013 ADMINISTRATION.**

The City Planning Official, City Recorder, City Manager, Assistant City Manager, City Legal Counsel or other city official as may be designated by the City Council shall have the power and the duty to enforce the provisions of this chapter. The City Council may appoint agents to issue zoning and other land development permits, and to otherwise assist the Planning Official, Zoning Administrator or other designated official in the processing of applications and other administrative functions required in the implementation of this chapter.

(Ord. 1057, passed 3-24-98)

**CLASSIFICATION OF ZONES.**

**§ 153.030 CLASSIFICATION OF ZONES.**

For the purposes of this chapter, the city of Prineville and the applicable Urban Growth Boundary (UGB) area are divided into zones designated as follows.

Section	Zone Title	Abbreviated Designation
153.045	Limited Residential	R-1
153.046	General Residential	R-2
153.047	Suburban Residential	R-3
153.048	Residential Redevelopment	R-4
153.049	Central Commercial	C-1
153.050	General Commercial	C-2
153.051	Professional Commercial	C-3
153.052	Neighborhood Commercial	C-4
153.053	Recreation Commercial	C-5
153.054	Limited Industrial	M-1
153.055	General Industrial	M-2
153.056	Industrial Park	M-3

- 153.057 Airport Approach Overlay Zone (AA)
- 153.058 Airport Operations Zone A-O
- 153.059 Airport Development Zone A-D
- 153.060 Airport Commercial Zone A-C
- 153.061 Airport Business-Industrial A-M
- 153.062 Air Residential Park A-R
- 153.063 Open Space-Park Reserve P-R
- 153.064 Significant Resource Combining (SR)

(Ord. 1057, passed 3-24-98)

**§ 153.031 LOCATION OF ZONES.**

(A) The boundaries of the zones established and classified by this chapter are as indicated and set forth on that map entitled the “Prineville City Zoning Map of 1998” dated March 1998, which is hereby adopted by reference as though set forth in full herein. The designations and boundaries of zones may be modified in accordance with Zoning Map amendments adopted in accordance with the provisions of this chapter which shall also be adopted by reference. (Ord. 1057, passed 3-24-98)

(B) The boundaries of the M-3 Zone established and classified by Ord. 1063, passed 12-9-98, amending this chapter are as indicated and set forth on the “Prineville City Zoning Map Amendment No. 1,” dated 12-8-98, attached to Ord. 1063. (Ord. 1063, passed 12-9-98)

**§ 153.032 ZONING MAP AND AMENDMENTS.**

A Zoning Map or Zoning Map Amendment adopted by §11.010 et seq., or by an amendment thereto, shall be prepared by authority of the City Planning Commission and the City Council, or as may otherwise be provided for by the Urban Growth Management Agreement adopted by the city and the county. The Map or Map Amendments shall be dated with the effective date of the adoption thereof by the jurisdiction designated by the UGM agreement, and shall be signed by the respective highest elected official and attested to by the respective planning official of the jurisdiction. The signed original, together with a copy thereof, shall be maintained on file in the offices of the City Planning Official, the City Recorder, the County Planning Official and the County Clerk.

(Ord. 1057, passed 3-24-98)

**§ 153.033 ZONE BOUNDARIES.**

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of streets and other rights-of-way or utilities, water courses, ridges or rimrocks, contour lines or such lines extended. Whenever uncertainty exists as to the exact boundary of a zone as shown on the Zoning Map(s) or amendments thereto, the following provisions shall control:

(A) Where a boundary line is indicated as following a street, alley, canal or railroad right-of-way, it shall be construed as following the centerline of the right-of-way.

(B) Where a boundary line follows or approximately coincides with a section line or division thereof, lot or property ownership line, public utility easement, watercourse, ridge or rimrock or contour line, it shall be construed as following the line.

(C) If a zone boundary, as shown on the Zoning Map, divides a lot or parcel between two zones, the entire lot or parcel may be determined to be in the zone in which

the greater area of the lot or parcel lies unless there is a specific statement set forth by this chapter or on the applicable Zoning Map as to the exact location of the boundary line, and if the adjustment is in compliance with the Comprehensive Plan use designating for the area.

(D) Where a public street, alley, canal or railroad right-of-way is officially vacated, the zoning regulations applicable to the abutting property on each side of the centerline of the right-of-way shall apply up to the centerline of the right-of-way as such existed prior to vacation on each respective side hereof . If the right-of-way is vacated in total to one property- owner, the zoning of that abutting property shall apply to the total vacated property.

(Ord. 1057, passed 3-24-98)

#### **§ 153.034 ZONING OF ANNEXED AREAS.**

An area annexed to the city shall, upon annexation, assume the zoning classification determined by the city to be in compliance with the Comprehensive Plan; the determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.

(Ord. 1057, passed 3-24-98)

#### **USE ZONES**

#### **§ 153.045 LIMITED RESIDENTIAL R-1 ZONE.**

In an R-1 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the R-1 Zone is to preserve the existing characteristics of certain residential areas within the city which are predominantly single family, owner occupied, conventional type housing; for example, the Ochoco Heights Area.

(B) Uses permitted outright. In an R-1 Zone, the following uses and their accessory uses are permitted outright.

(1) Single family dwelling, excluding modular homes and manufactured homes.

(2) Residential home as defined by O.R.S. 197.660 and § 153.004 of this chapter.

(3) Family day care center as defined in O.R.S. Ch. 418.

(4) Adult foster home as defined in O.R.S. 443.705(1).

(5) Utility lines necessary for local public service.

(6) Land partitioning whereby no new access roads or streets are created or necessary to provide access to the parcels.

(7) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way including the addition of turn refuges at the existing street intersections, but not including addition of through travel lanes.

(8) Replacement of bridges and other stream or canal crossing facilities.

(9) Temporary improvements in association with construction projects, such as temporary roads and detours.

(10) Bikeways, footpaths and recreation trails.

(11) Construction of new streets and roads, including the extensions of existing streets and roads that are included within locally adopted transportation systems



plans (as may be amended), the State Highway Transportation Improvement Plan, or as has been identified in a specific development review and approval process.

(12) Construction, reconstruction, maintenance or repair of public water and sewer systems or components thereof.

(13) Private garages and accessory buildings commonly associated with residential uses.

(C) Conditional uses permitted. In an R-1 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Public use limited to a public park, playground, other open recreation use or recreation building.

(b) Guest house.

(c) Duplex or two family dwelling unit.

(d) Land partitioning involving the creation of a road or street for access to one or more parcels.

(e) The addition of through travel lanes to an existing street within the existing right-of-way and/or the extension of an existing street not previously planned.

(2) Type II conditional uses.

(a) Hospital, nursing home, convalescent home, retirement home or elderly assisted living complex.

(b) Condominium or townhouse complex not exceeding four units.

(c) Telephone exchanges, radio and television facilities and other private utility facilities necessary for public service.

(d) Church.

(e) Publicly- or privately-operated day nursery or day care center, provided the residential character of the area is maintained.

(f) Subdivision, planned unit development or other land development project of four or more units.

(g) Construction of a new street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan, or previously approved development plan.

(D) Dimensional standards. In an R-1 Zone, the following dimensional standards shall apply.

(1) Minimum lot area shall be 6,500 square feet for a single family dwelling unit, 9,000 for a two family dwelling (duplex) unit and 2,500 square feet for each unit over two.

(2) Front yard shall be minimum of 20 feet.

(3) The sum of the width of the two side yards shall be a minimum of 12 feet, and the minimum side yard shall be three feet; except that on a corner lot, the side yard on the street side shall be a minimum of ten feet, and the sum of the width of the two side yards shall be 13 feet.

(4) Rear yard shall be a minimum of ten feet, except on corner lots the rear yard shall be five feet.

(5) Vision clearances on corner lots shall be 20 feet, and on street-alley intersections shall be seven feet.

(6) Buildings shall not occupy more than 30% of the total lot area.

(7) No building shall exceed a height of 30 feet or two and one half stories, whichever is less, except that hospitals and churches may be increased to three stories or 35 feet in height.

(E) Signs. In an R-1 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Off-street parking. In an R-1 Zone, off-street parking facilities shall meet the requirements set forth in § 153.081 et seq. of this chapter.

(G) Site design review. All uses, except single family conventional dwellings and their accessory structures, are subject to the site design review provisions of § 153.098. Special design considerations shall be given and may be required to protect scenic views from existing dwelling units on adjoining lots.

(H) Sewer and water services required. No use permitted in this zone shall be permitted without municipal sewer and water services, regardless of the lot area, unless otherwise approved by the city.

(I) Nuisances and certain uses prohibited. In an R-1 Zone, no structure or land shall be occupied or used for any purpose which creates or causes to be created any public nuisance, including but not limited to excessive odor, dust, noise, vibration or any hazard to the general health, safety and welfare of the area. Specifically, no livestock shall be permitted except domestic dogs and cats and these animals shall be solely confined to an individual owner's property. Any animals permitted to run at large are hereby declared a nuisance and may be abated as such.

(Ord. 1057, passed 3-24-98)

#### **§ 153.046 GENERAL RESIDENTIAL R-2 ZONE.**

In an R-2 Zone, the following regulations shall apply.

(A) Purpose. It is the purpose of the R-2 Zone to provide for residential areas which permit a mixture of a variety of housing types at various densities in a more planned type of development design, including a minimum of nonresidential commercial convenience and service type uses in more accessible proximities for the purposes of providing for conveniences and services to the dominant intended residential users of the area.

(B) Uses permitted outright. In an R-2 Zone, the following uses and their accessory uses are permitted outright.

(1) Single family dwelling, including modular homes and manufactured homes in compliance with the applicable provisions set forth in § 153.080 et seq., served by both public sewer and water systems.

(2) Two family dwelling or duplex.

(3) Residential home as defined by O.R.S. 197.660(2) and § 153.004 of this chapter.

(4) Family day care center as defined in O.R.S. Ch. 418.

(5) Adult foster home as defined in O.R.S. 443.705(1).

- (6) Utility lines necessary for local public service.
- (7) Land partitioning where no new street or road is created.
- (8) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.
- (9) Replacement of bridges and other stream or canal crossing facilities.
- (10) Temporary improvements in association with construction projects such as temporary roads and detours.
- (11) Bikeways, footpaths and recreation trails.
- (12) Construction of new streets and roads, including the extensions of existing streets and roads, that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan, or as has been identified in a specific development review and approval process.
- (13) Construction, reconstruction, maintenance or repair of public water and sewer systems or components thereof.
- (14) Private garages and accessory buildings commonly associated with residential uses.

(C) Conditional uses permitted. In an R-2 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

- (1) Type I conditional uses.
  - (a) Governmental structure or land use including, and limited to, a public park, playground, recreation building, fire station, library or museum.
  - (b) Multi family dwelling complex up to a maximum of ten units served by both public sewer and water.
  - (c) Triplex or four-plex, including townhouses or condominiums up to four units.
  - (d) Home occupation or cottage industry with no retail sales and no employees except members of the resident family.
  - (e) Bed and breakfast facility in an existing residence.
  - (f) Guest house.
  - (g) Publicly or privately operated kindergarten, day nursery or child care center.
  - (h) Land partitioning involving the creation of a new street or road for access to one or more parcels.
  - (i) The addition of through travel lanes to an existing street within the existing right-of-way, and/or the extension of an existing street not previously planned.
- (2) Type II conditional uses.
  - (a) Community building owned and operated by a public or nonprofit agency or organization.
  - (b) Hospital and other medical service facilities including, but not limited to, clinics, sanitariums, rest homes, homes for the aged, nursing or convalescent homes.

- (c) Telephone exchanges, radio and television facilities, electrical substations and other public or private utility facilities.
- (d) Multi family dwelling complexes, including townhouses and condominiums of more than ten dwelling units.
- (e) Home occupations not complying with subsection (C)(1)(d) of this section, but in compliance with the applicable provisions set forth in § 153.135 et seq.
- (f) Subdivision, planned unit development or other land development of more than four units.
- (g) Public or private church or school, including buildings and other uses essential to the operation thereof.
- (h) Residential facility or adult foster home as defined by O.R.S. 197.660 and § 153.004 of this chapter.
- (i) Manufactured dwelling or mobile home park.
- (j) “Pitch 'n' Putt” or miniature golf course and other open land recreational uses, but excluding driving ranges and intensive commercial amusement use such as automobile race tracks or amusement parks.
- (k) Convenience or neighborhood market or store of not more than 2,500 square feet of retail floor space.
- (l) Residentially oriented service businesses such as laundries, carpet/upholstery cleaning, home appliance repair, beauty and barber shops and similar uses of not more than 1,200 square feet each.
- (m) Any combination of uses permitted by subsections (C)(2)(k) and (l) of this section up to a total floor area of 5,000 square feet
- (n) Construction of a new street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan or previously approved development plan.
- (o) Any use permitted in subsections (B) or (C)(1) of this section served by either public sewer or water, but not both.
- (p) Professional commercial uses, such as offices for accountants, bookkeepers, attorneys, engineers, architects, doctors, dentists, real estate and insurance and medical or dental clinics subject to the conditions and limitations set forth in § 153.143(U) in this chapter.

(D) Dimensional standards. In an R-2 Zone, the following dimensional standards shall apply.

- (1) For residential uses served by both public sewer and water the minimum lot area for a single family dwelling shall be 5,000 square feet, 7,500 feet for a two family dwelling and an additional 1,500 square feet for each unit over two; for example, 9,000 sq. ft for a triplex, and 10,500 square feet for a four-PLEX.
- (2) For multi family dwellings complexes of more than 4 units, the minimum lot area shall be 10,500 square feet plus an additional 1,500 square feet for each unit over four.
- (3) For residential uses served by either public sewer or water, but not both, the minimum lot area for a single family dwelling shall be 20,000 square feet, for a two family dwelling 30,000 square feet and for a four-PLEX 40,000 square feet; for multi

family dwelling complexes of more than four units, there shall be an additional 2,500 square feet for each additional dwelling unit over four.

(4) For residential uses not served by either public sewer or water, the Commission shall determine the minimum lot size, but in no case shall a minimum lot area of less than that set forth in subsection (D)(3) plus 25% be permitted.

(5) For all nonresidential uses, the minimum lot size shall be determined on the basis of compliance with all applicable dimensional standards and the preservation of the residential character of the neighborhood.

(6) Front yard shall be minimum of 20 feet.

(7) The total of the two side yards shall be a minimum of 12 feet with the minimum side yard being three feet; except that on corner lots the side yard adjacent to a street shall be a minimum of ten feet and the total of the two side yards shall be a minimum of 13 feet.

(8) Rear yard shall be a minimum of ten feet, except that when adjacent to an alley or on a corner lot the rear yard shall be a minimum of five feet.

(9) Buildings shall not occupy more than 35% of the total lot area.

(10) No residential building shall exceed two and one half stories or a height of 35 feet; nonresidential uses such as schools, churches, community buildings, hospitals and the like may be increased in height to 45 feet.

(11) Vision clearances shall be 20 feet on corner lots and seven feet on alley-street intersections.

(E) Signs. In an R-2 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Off-street parking. In an R-2 Zone, off-street parking facilities shall meet the applicable requirements set forth in § 153.080 et seq. of this chapter.

(G) Site design review. All uses, except single family dwellings served by both public sewer and water and their accessory structures, are subject to the site design review provisions of § 153.098.

(H) Limitations on uses. Domestic livestock are permitted, but only in compliance those provisions set forth in § 153.097 of this chapter, but no animal is permitted to run at large. No structure or land shall be occupied or used in any residential zone for any purpose which creates or causes to be created any public nuisance, including but not limited to excessive odor, dust, noise, vibration or any hazard to the general health, safety and welfare of the surrounding area.

(Ord. 1057, passed 3-24-98)

### **§ 153.047 SUBURBAN RESIDENTIAL R-3 ZONE.**

In an R-3 Zone, the following regulations shall apply.

(A) Purpose. It is the purpose of the R-3 Zone to provide for housing areas which are or may be of a more transitional character, and in areas for which both public water and sewer is not reasonably available primarily due to economic or physical limitations. It is also the purpose of the R-3 Zone to preserve the more rural characteristics of existing developed areas and/or to provide areas for those future residents which desire or demand a more rural type setting in close proximity to urban uses and services. It is further the intent of the R-3 Zone to provide for zoning which corresponds to the existing county Suburban-Residential S-R that is currently applicable

within the subject Urban Growth Boundary (UGB) area, thereby providing for minimal impacts upon transition from county to city jurisdiction.

(B) Uses permitted outright. In an R-3 Zone, the following uses and their accessory uses are permitted outright.

(1) Single family dwelling, including a manufactured home on an individual lot in compliance with the applicable provisions set forth in § 153.080 et seq. of this chapter.

(2) Two family dwelling or duplex.

(3) Land partitioning not involving the creation of a new road or street for access.

(4) Residential home as defined by O.R.S. 197.660(2) and § 153.004 of this chapter.

(5) Family day care center as defined in O.R.S. Ch. 418.

(6) Adult foster home as defined in O.R.S. 443.705(1).

(7) Utility lines necessary for public service.

(8) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(9) Replacement of bridges and other stream or canal crossing facilities.

(10) Temporary improvements in association with construction projects, such as temporary roads and detours.

(11) Bikeways, footpaths and recreation trails.

(12) Construction of new streets and roads, including the extensions of existing streets and roads, that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(13) Construction, reconstruction, maintenance or repair of public water and sewer systems or components thereof.

(14) Private garages and accessory buildings commonly associated with residential uses.

(C) Conditional uses permitted. In an R-3 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth in § 153.135 et seq.

(1) Type I conditional uses.

(a) Governmental structure or use including park, playground, recreation building, fire station, library or museum and limited thereto.

(b) Home occupations carried on by the residents as an accessory use within their dwelling as an existing garage or other accessory buildings permitted in the zone, provided there are no employees except the immediate family of the applicant and that there are no retail sales from the premises.

(c) New water supply and sewage treatment facilities.

(d) Multi family dwellings of not more than four units including triplexes and four-plexes.

(e) Crop cultivation or farm and truck gardens, including plant nurseries and on-premises sales of farm products grown on site.

(f) The addition of through travel lanes to an existing street within the existing right-of-way, and/or the extension of the existing street not previously planned.

(g) Telephone exchanges, radio and television facilities, electrical substations and other public or private utility facilities.

(h) Land partitioning involving the creation of a new road or street for access, whether private or public.

(2) Type II conditional uses.

(a) Planned unit development, subdivision or other land development of four or more units, lots or parcels.

(b) Church, including buildings and accessory uses essential to the operation thereof.

(c) Golf course and other open land recreational use, but excluding intensive commercial amusement uses such as driving ranges, automobile or motorcycle race tracks or amusement parks.

(d) Hospital, sanitarium, rest home, home for the aged, nursing home or convalescent home, and medical or dental clinic.

(e) Public or private school or college, including buildings and uses accessory and essential to the operation thereof.

(f) Manufactured home park or subdivision.

(g) Multi family dwelling complexes of more than four dwelling units.

(h) Home occupations carried on by the residents as an accessory use within their dwelling, a garage or other accessory buildings permitted in the zone, not in compliance with the limitations set forth in subsection (C)(1)(b) of this section, but in compliance with the provisions set forth in the applicable section of §153.135 et seq.

(i) Privately or publicly operated kindergarten, day nursery or preschool.

(j) Residential facility as defined by O.R.S. 197.660(1) and § 153.004 of this chapter.

(k) Construction of a new road or street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan or previously approved development plan.

(l) Convenience or neighborhood market or store of not more than 2,500 square feet of retail floor space.

(m) Residentially oriented service businesses such as laundries, carpet/upholstery cleaning, home appliance repair and similar uses of not more than 1,200 square feet each.

(n) Any combination of uses permitted by subsections (C)(2)(m) and (n) of this section up to a total floor area of 5,000 square feet

(o) Professional commercial uses such as offices for accountants, bookkeepers, attorneys, engineers, architects, doctors, dentists, real estate

and insurance and medical or dental clinics subject to the conditions and limitations set forth in § 153.143(U).

(D) Dimensional standards. In an R-3 Zone, the following dimensional standards shall apply.

(1) For a single family dwelling served by both an approved community, municipal or public water system and an approved community or public sewerage system, the minimum lot area shall be 5,000 square feet.

(2) For a two family dwelling, served by both an approved community, municipal or public water system and an approved community or public sewerage system, the minimum lot area shall be 7,500 square feet.

(3) For a single family dwelling, served by either an approved community, municipal or public water system or an approved community or public sewerage system, but not both, the minimum lot area shall be 20,000 square feet.

(4) For a two family dwelling served by either an approved community or public sewerage system or an approved community, municipal or public water system, but not both, the minimum lot area shall be 30,000 square feet.

(5) For a single family dwelling not served by either an approved community, municipal or public water system or an approved community or public sewerage system, the minimum lot area shall be one acre (43,560 square feet).

(6) For a two family dwelling not served by either an approved community, municipal or public water system or an approved community or public sewerage system, the minimum lot area shall be 1.25 acres (54,450 square feet).

(7) For a multi family dwelling complex not served by either an approved community, municipal or public water system, or an approved community or public sewerage system, the minimum lot area shall be 1.25 acres (54,450 square feet) plus 7,500 square feet for each dwelling unit over two.

(8) For a multifamily dwelling complex served by either an approved community, municipal or public water system or an approved community or public sewerage system but not both, the minimum lot area shall be 20,000 square feet plus 5,000 square feet for each dwelling unit over two.

(9) For a multi family dwelling complex served by both an approved community, municipal or public water system and an approved community or public sewerage system, the minimum lot area shall be 7,500 square feet plus 1,500 square feet for each dwelling unit over two.

(10) Note: The foregoing minimum lot standards applying to units not served by either public sewer or water may be waived by the respective Planning Commission if there is a written assurance that both public sewer and water will be provided within an established schedule and an approved financial guarantee therefor is provided.

(11) The main building and accessory buildings located on any building site or lot shall not cover in excess of 30% of the lot area.

(12) In an R-3 Zone, the following setbacks (yards) shall apply.

(a) Front yards shall not be less than 20 feet.

(b) The sum of the width of side yards



shall be a minimum of 12 feet and each side yard shall be a minimum of three feet, except that on corner lots the side yard on the street side shall be a minimum of ten feet and the sum of the two side yards shall be 13 feet.

(c) A rear yard shall be a minimum of ten feet, except on a corner lot the rear yard shall be five feet and when adjacent to an alley five feet.

(13) No building or structure shall be hereafter erected to exceed two and one-half stories or more than 35 feet in height, except hospitals, public schools or churches, which may be increased in height to three stories or 45 feet.

(14) Vision clearances shall be 20 feet on corner lots and seven and one-half feet on alley-street intersections.

(E) Signs. In an R-3 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Off-street parking. In an R-3 Zone, off-street parking facilities shall meet the applicable requirements set forth in § 153.080 et seq.

(G) Site design review. All uses, except single family dwellings served by both public sewer and water and their accessory structures, are subject to the site design review provisions of § 153.098.

(H) Limitations on uses. Domestic livestock are permitted, but only in compliance with those provisions set forth in § 153.097, but no animal is permitted to run at large. No structure or land shall be occupied or used in any residential zone for any purpose which creates or causes to be created any public nuisance, including, but not limited to, excessive odor, dust, noise, vibration or any hazard to the general health, safety and welfare of the surrounding area.

(Ord. 1057, passed 3-24-98)

#### **§ 153.048 RESIDENTIAL REDEVELOPMENT R-4 ZONE.**

In an R-4 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the R-4 Zone is to encourage redevelopment and rehabilitation of existing housing in areas in which the existing housing stock is characterized by older, deteriorating housing needing replacement by permitting higher densities, increased lot coverages, decreased setbacks, more streamlined permit processes and other incentives for redevelopment efforts.

(B) Uses permitted outright. In an R-4 Zone, the following uses and their accessory uses are permitted outright.

(1) Single family dwelling, including modular and manufactured homes in compliance with the applicable provisions set forth in § 153.080 et seq., served by both public sewer and water.

(2) Two family dwelling or duplex, triplex or four-PLEX served by both public sewer and water.

(3) Residential home as defined by O.R.S. 197.660 (2) and § 153.004 of this chapter.

(4) Family day care center as defined in O.R.S. Ch. 418.

(5) Adult foster home as defined in O.R.S. 443.705.

(6) Utility lines necessary for public service.

(7) Land partitioning where no new road or street is created.

(8) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(9) Replacement of bridges and other stream or canal crossing facilities.

(10) Temporary improvements in association with construction projects such as temporary roads and detours.

(11) Bikeways, footpaths and recreation trails.

(12) Construction of new streets and roads, including the extensions of existing streets and roads that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(13) Private garages and accessory buildings commonly associated with residential uses.

(C) Conditional uses permitted. In an R-4 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Multi family dwelling complex up to a maximum of ten units served by both public sewer and water.

(b) Home occupation or cottage industry with no employees except members of the resident family.

(c) Boarding, lodging or rooming house.

(d) Bed and breakfast facility in an existing dwelling.

(e) Guest house.

(f) Land partitioning involving the creation of a new road or street for access to one or more parcels.

(g) Community building owned and operated by a governmental agency or a nonprofit, social or fraternal organization.

(h) Publicly or privately operated kindergarten, day nursery or child care center.

(i) The addition of through travel lanes to an existing street within the existing right-of-way, and/or the extension of an existing street not previously planned.

(j) Governmental structure or land use limited to a public park, playground, recreation building, fire station, library or museum.

(k) Any use permitted by division (A) of this section that is only served by either public sewer or water, but not both.

(2) Type II conditional uses.

(a) Governmental structure or land use not limited to a public park, playground, recreation building, fire station, library or museum.

(b) Hospital, and other medical service facilities such as clinics, sanitarium, rest home, home for the aged, nursing, convalescent or retirement home.

- (c) Telephone exchanges, radio and television facilities, electrical substations and other public or private utility facilities.
- (d) Residential facility as defined by O.R.S. 197.660.(1) and § 153.004 of this chapter.
- (e) Planned unit development, subdivision or other land development.
- (f) Manufactured dwelling park.
- (g) Multi family dwelling complex of more than 10 dwelling units.
- (h) Public or private school or church, including accessory buildings and uses essential to the operation thereof.
- (i) "Pitch 'n' Putt" golf course and other open land recreational use, but excluding driving ranges and intensive commercial amusement use such as automobile race tracks or amusement parks..
- (j) Construction of a new street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan or previously approved development plan.
- (k) Convenience or neighborhood market or store of not more than 2,500 square feet of retail floor space.
- (l) Residentially oriented service businesses such as laundries, carpet/upholstery cleaning, home appliance repair and similar uses of not more than 1,200 square feet each.
- (m) Any combination of uses permitted by subsections (C)(2)(k) and (l) of this section up to a total floor area of 5,000 square feet
- (n) Any use permitted by divisions (B) and (C)(1) of this section that does not have either public sewer or water services.
- (o) Professional commercial uses such as offices for accountants, bookkeepers, attorneys, engineers, architects, doctors, dentists, real estate and insurance and medical or dental clinics subject to the conditions and limitations set forth in § 153.143(U).

(D) Dimensional standards. In an R-4 Zone, the following dimensional standards shall apply.

(1) For residential uses served by both public sewer and water, the minimum lot area for a single family dwelling shall be 5,000 square feet, for a two family dwelling 6,500 square feet, for a triplex 8,000 sq. ft, and for a four-PLEX 9,500 square feet

(2) For multi family dwelling complexes of more than four units, the minimum lot size shall be 9,500 square feet plus an additional 1,250 square feet for each unit over four.

(3) For residential uses served by either public sewer or water, but not both, the minimum lot area for a single family dwelling shall be 10,000 square feet, for a two family dwelling 15,000 square feet, for a triplex 20,000 square feet and for a four- PLEX 25,000 square feet; for multi family dwelling complexes of more than four, there shall be an additional 2,500 square feet for each additional dwelling unit over four; however, these standards may be increased as necessary, for compliance with applicable sewage disposal system standards.

(4) For residential uses not served by either public sewer or water, the Commission shall determine the minimum lot size, but in no case shall a minimum less than that set forth in division (D)(3) above plus 25% be permitted.

(5) For all nonresidential uses, the minimum lot size shall be determined on the basis of compliance with all applicable dimensional standards and the preservation of the residential character of the neighborhood.

(6) Front yard shall be a minimum of 15 feet on all local streets and 20 feet on a collector or arterial street.

(7) The sum of the side yards shall be a minimum of ten feet with the minimum side yard being three feet; except that on corner lots the side yard adjacent to a street shall be a minimum of ten feet and sum of the side yards shall be 13 feet.

(8) Rear yard shall be a minimum of five feet.

(9) Buildings shall not occupy more than 35% of the total lot area, except that in the case of the replacement of a dilapidated and/or deteriorating structure the lot coverage maximum may be increased to 40%.

(10) No residential building shall exceed two and one-half stories or a height of 35 feet, whichever is greater, and nonresidential uses such as schools, churches, community buildings, hospitals and the like may be increased in height to 45 feet.

(E) Signs. In an R-4 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Off-street parking. In an R-4 Zone, off-street parking facilities shall meet the applicable requirements set forth in § 153.080 et seq.

(G) Site design review. All uses, except single family dwellings served by both public sewer and water and their accessory structures, are subject to the site design review provisions of § 153.098.

(H) Limitations on uses. Domestic livestock are permitted, but only in compliance with those provisions set forth in § 153.097, but no animal is permitted to run at large. No structure or land shall be occupied or used in any residential zone for any purpose which creates or causes to be created any public nuisance, including but not limited to, excessive odor, dust, noise, vibration or any hazard to the general health, safety and welfare of the surrounding area.

(Ord. 1057, passed 3-24-98)

#### **§ 153.049 CENTRAL COMMERCIAL ZONE C-1 ZONE.**

In a C-1 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the C-1 Zone is to preserve and enhance the dominant characteristics of that area of the city identified as the Downtown Core Commercial Area with emphasis on pedestrian shopper convenience and safety, the enhancement of historic features, downtown improvement needs and designs and to enhance the area's economic importance as a commercial center of the community.

(B) Uses permitted outright. In a C-1 Zone, the following uses and their accessory uses are permitted outright.

(1) Bed and breakfast facility in an existing dwelling.

(2) Financial institution or financial service facility, excluding those with drive-thru window or ATM service.

(3) Printing shops, newspapers or other publishing business, service or supply, including advertising business.

(4) Drug store, pharmacy and medical supplies, excluding those with drive-in window service.

(5) Food, grocery, clothing and apparel, general merchandise and other similar retail businesses.

(6) Gift shops, specialty shops, book stores, music stores or other similar and tourist oriented sales and service, including travel agencies.

(7) Eating and drinking establishments, not including drive-ins or those serving alcoholic beverages.

(8) Sporting goods store, gun shop, sales and service.

(9) Business, professional or personal services office, including, but not limited to, medical, dental, attorney, real estate sales, engineer, mail services, photography and similar uses.

(10) Hardware, department, furniture, floor and wall covering, home improvement, including sales, service, installation and consultation, excluding those with open and/or outside storage.

(11) Dance school, music studio, health studio, physical therapist, reducing salon, health and fitness centers.

(12) Beauty salon or barbershop.

(13) Florist, excluding nursery and greenhouse.

(14) Meat market, retail only and not including slaughter on-premises.

(15) Pet shop, excluding veterinary clinic or kennel.

(16) Arts, crafts and photo gallery and studio.

(17) Shoe store, shoe repair, saddle shop, leather store and the like.

(18) Utility lines necessary for public service.

(19) Land partitioning where no new road or street is created.

(20) Replacement of bridges and other stream or canal crossing facilities.

(21) Temporary improvements in association with construction projects, such as temporary roads and detours.

(22) Theater or performing arts center, but not including a drive-in.

(23) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(24) Bikeways, footpaths and recreation trails.

(25) Construction of new streets and roads, including the extensions of existing streets and roads, that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(26) Governmental or utility service office not including any maintenance facilities.

(27) Public library or museum.

(28) Medical or dental clinic.

(29) Studios and galleries for artists, photographers and interior decorators.

(30) Public park or other open land recreation area or facility.

(31) Land partitioning where no new road or street is created.

(C) Conditional uses permitted. In a C-1 Zone the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Public or private transportation stations and public or private parking facilities and lots.

(b) Laundry or dry-cleaning business, excluding self-service.

(c) Residential use in conjunction with a permitted commercial use where the residential use is secondary to the commercial use within the same building and does not exceed 30% of the total ground floor area(s) of the subject commercial building.

(d) Replacement of a previously existing residential use.

(e) Home appliance sales, service and repair totally enclosed within a building and excluding those with open and/or outside storage.

(f) Family day care center, day care center, adult day care center, day nursery, senior center or preschool.

(2) Type II conditional uses.

(a) Any use permitted in division (B) of this section that includes drive-in services.

(b) Any structure or building exceeding a height of 35 feet.

(c) Single family and two family dwelling units, triplexes and multi family dwelling unit complexes.

(d) Electrical, plumbing and building materials businesses totally enclosed within a building and excluding those with open and/or outside storage.

(e) Public or private school or church, including buildings essential and accessory to the operations thereof.

(f) Private or public enclosed recreational or amusement facilities including, but not limited to, pool/billiard hall, bowling, dance hall, skating rink, video arcade and the like, including those establishments serving alcoholic beverages.

(g) Governmental structure or land use including, but not limited to, office buildings, recreation building, fire or other emergency services station, library, museum or open park.

(h) Community building, fraternal or social organizational building, including those serving alcoholic beverages.

(i) Small animal veterinary clinic, not including any kennel facilities.

(j) Eating or drinking establishment serving alcoholic beverages, including micro-breweries.

(k) Hotel, motel or similar traveler s' accommodations.

(l) Hospital and other medical service facilities including a residential home, residential facility and adult foster home.

(m) Telephone exchanges, radio and television facilities, electrical substations and other public or private utilities.

(n) Self-service laundries.  
(o) Shopping or retail trade center complex, for example, any development proposal involving a combination of three or more of the uses permitted in this zone.

(p) Antique store, not including general secondhand store or pawnshop.

(q) Mini market or convenience store.

(r) Other retail trade or business establishments found similar to or compatible with the existing uses in the C-1 zone or in compliance with the Downtown Development Plan for the area.

(s) Construction of a new street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan or previously approved development plan.

(t) Mortuary, undertaking or funeral parlor, not including a crematorium or mausoleum.

(D) Dimensional standards. In a C-1 Zone, the following dimensional standards shall apply.

(1) For residential uses permitted in this zone, the minimum lot areas and other dimensional standards, including setbacks, set forth in the R-2 Zone shall apply.

(2) For all other uses permitted in this zone, the minimum lot area shall be governed by the combined yard, off-street parking requirements and other requirements set forth in this section and this chapter.

(3) A side or rear yard abutting a residential zone shall be a minimum of ten feet.

(4) For a yard abutting a street, a commercial building may be constructed to the property line if in compliance with sidewalk requirements and vision clearance requirements.

(5) No building shall exceed a height of 35 feet except as approved otherwise as a conditional use type II.

(6) Side building setbacks shall be as necessary to comply with building code standards regarding fire protection, vision clearances and the like.

(E) Signs. In a C-1 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Use limitations. In a C-1 Zone, permitted uses shall be subject to the following limitations and standards; however, except for subdivision (F)(3) below, the provisions herein related to parking and access shall be exempted for such uses existing on or before the effective date of this chapter which occupy an existing building on a parcel of land which contains no room for parking, and this exemption shall apply to any exterior remodeling or alteration, or expansion not exceeding 25% of the total area of such a use as the use existed on or before the effective date of this chapter, provided however that any existing parking displaced by the alterations or expansions shall be replaced in a manner approved by the city.

(1) All business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building, except for drive-in windows as may be approved by the Commission. Display of merchandise along the

outside wall of the building shall not extend more than three feet from the wall on private property only and shall not in any case preclude pedestrian use of walkways, sidewalks and the like; these limitations do not apply to the outside display of merchandise during a merchants or community sponsored promotional sale, or to the outside display of merchandise confined to an area or facility designed for such purpose and approved by the Planning Commission or Director.

(2) Except as may be approved otherwise by the city, all employee parking demand created by any use permitted under the provisions of this section shall be provided entirely off-street on an area or facility, public or private, designated for such use; no on-street parking shall be considered in meeting the requirement for employee parking.

(3) No use permitted in this zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress or egress to any use or the premises thereof except as otherwise approved by the city.

(4) All nonresidential uses permitted in this zone shall be screened from abutting properties in a residential zone by a sight-obscuring fence except as otherwise approved by the city.

(5) Uses in excess of 20,000 square feet of retail sales floor area shall provide customer restroom facilities.

(G) Off-street parking and loading. In a C-1 Zone, off-street parking and loading facilities may be required to be provided in accordance with the provisions set forth in § 153.080 et seq.

(1) Off-street parking and loading may be required for all new development and all exterior remodeling and/or expansion in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract as of the effective date of this chapter.

(2) At a minimum, parking displaced by an alteration or expansion shall be replaced as approved by the city.

(3) However, the provisions for parking shall be exempted for permitted uses existing on or before the effective date of this chapter which occupy an existing building on a parcel of land which contains no room for parking.

(4) Redevelopment of second and third floor uses, including residential uses, as the use has been previously conducted shall also be exempt from the parking requirements.

(H) Design review. All uses permitted in this zone are subject to the design review provisions set forth in § 153.080 et seq.

(I) Outdoor merchandising. Outdoor merchandising shall only be permitted only as set forth in § 153.080 et seq., or as otherwise approved by the city.

(J) Minimum sidewalk width and requirements. Unless approved otherwise by the city, the minimum sidewalk width in a C-1 Zone along a street shall be eight feet. Where there is inadequate public right-of-way between the curb and property lines, the additional right-of-way width necessary to meet this requirement may be required as a condition of approval.

(1) However, as may be approved by the city in advance of development, the minimum sidewalk may be reduced to not less than six feet in width



where the development provides porches, covered walkways or excellence in landscaping which does not impede or enhances pedestrian circulation.

(2) Sidewalks shall be constructed as a part of all new construction, or as a part of any exterior remodeling and/or expansion in excess of 25% of the total area of all enclosed structures on a parcel of land under a unit ownership as such existed on or before the effective date of this chapter.

(3) Sidewalks may be required to be constructed in accordance with the currently adopted Downtown Improvement Plan which shall be periodically updated by the City Council.

(K) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in the currently adopted Downtown Improvement Plan which shall be periodically updated by the City Council may be required for all new development and all exterior remodeling and/or expansion. With the exception of landscaping within the sidewalk area as provided for by the currently adopted Downtown Improvement Plan, landscaping requirements shall be exempted for permitted uses existing on or before the effective date of this chapter which occupy an existing building on a parcel of land which contains no area for landscaping.

(Ord. 1057, passed 3-24-98)

#### **§ 153.050 GENERAL COMMERCIAL C-2 ZONE.**

In a C-2 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the C-2 Zone is to provide for those commercial uses which are considered more desirable to be located in an area outside of the downtown commercial core area, that are more dependent upon and create the highest volumes of vehicular traffic, are considered the heaviest or most intensive type of commercial uses, which actually involve a combination of heavy commercial and light industrial type uses, which commonly involve expansive areas of outside storage and displays of products and are more traveler oriented.

(B) Uses permitted outright. In a C-2 Zone, the following uses and their accessory uses are permitted outright.

(1) Boarding, lodging or rooming house, and bed and breakfast facility.

(2) Financial institution or financial service facility including drive-in-window services.

(3) Printing, newspaper or other publishing business, including advertising.

(4) Drug store, pharmacy, medical supplies, including drive-in window services.

(5) Food, grocery, clothing and apparel, general merchandise, mini market, convenience store and other similar businesses.

(6) Eating and drinking establishments, including drive-ins, but excluding those serving alcoholic beverages.

(7) Sporting goods, gun shop, sales and service.

(8) Business, professional or personal services office buildings, including but not limited to, medical, dental, attorney, real estate sales, engineer, mail service, photography and similar uses.

- (9) Hardware, department, furniture, floor and wall covering, home improvement, home appliance and the like, including sales, service consultation and installation, excluding open/outside storage.
- (10) Electrical, plumbing, heating and cooling and building materials, excluding open, outside service.
- (11) Dance or music school, health and fitness centers, reducing salons, beauty salon, barbershop and other similar uses.
- (12) Public or private transportation stations, freight depots or terminals, semi-truck parking and staging and public or private parking facilities.
- (13) Feed and farm supplies, including enclosed, outside storage and display, but excluding heavy equipment, sales and service and farm product processing on site.
- (14) Florist, nursery and greenhouse.
- (15) Meat market, retail-wholesale, but excluding slaughter on-premises.
- (16) Arts, crafts and photo businesses, galleries and studios.
- (17) Laundry and/or dry cleaning, including self-service.
- (18) Family day care center, day nursery and other child care facilities, including kindergartens and preschools.
- (19) Private or public recreation or amusement facilities including, but not limited to, miniature and "Pitch 'n' Putt" golf course, pool and billiard hall, bowling alley, dance hall, skating rink and other similar commercial or open land recreational facilities, excluding those serving alcoholic beverages.
- (20) Theater or performing arts center, but not drive-in theater.
- (21) Public or private school or church, including buildings and uses essential and accessory to the operations thereof.
- (22) Governmental structure or land use including, but not limited to, office buildings, recreation building, fire or other emergency service station, library, museum or open park but not including maintenance facilities.
- (23) Medical service facilities, including medical, dental and other out-patient medical service clinics, including rehabilitation centers.
- (24) Automobile service station with carwash, auto repair and/or convenience store as a secondary or accessory use thereto, tire center, including but not limited to, retail and wholesale tire and brake sales installation, maintenance and repairs.
- (25) Pet shop, veterinary clinic and kennel, totally enclosed within a building.
- (26) Bicycle, motorcycle, ATV, snowmobile and other recreational vehicle sales and service.
- (27) Automobile, truck, boat, recreation vehicle or mobile home sales, service, repair and rental.
- (28) Storage building(s) and/or facilities, not including those used for commercial sale and/or services, either wholesale or retail.
- (29) Utility lines necessary for public service.
- (30) Ice or cold storage plant and beverage bottling plant totally enclosed within a building.
- (31) Taxidermy, totally enclosed within a building.

- (32) Shoe store, shoe repair, saddle shop, leather store and the like.
  - (33) Gift shop, specialty shops, book stores, music stores or other similar and tourist oriented sales and services, including travel agencies.
  - (34) The resumption of a residential use by the replacement of the use where the subject use has previously been conducted and the subject residential structure has not been removed for a period exceeding one year.
  - (35) Land partitioning where no new road or street is created.
  - (36) Replacement of bridges and other stream or canal crossing facilities.
  - (37) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way including the addition of turn refuges at existing street intersections but not including the addition of through travel lanes.
  - (38) Temporary improvements in association with construction projects, such as temporary roads and detours.
  - (39) Bikeways, footpaths and recreation trails.
  - (40) Construction of new streets and roads, including the extensions of existing streets and roads that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Plan or as has been identified in a specific development, review and approval process.
  - (41) Motels or hotels.
  - (42) Tire manufacturing business, which includes all of the following elements: tire and tire equipment manufacturing, retail sales, distribution, warehousing, trucking and associated repair and office facilities.
- (C) Conditional uses permitted. In a C- 2 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.
- (1) Type I conditional uses.
    - (a) Wholesale distribution outlet or transport business depot, including warehousing, but excluding outside open storage.
    - (b) Residence including a manufactured or modular home for a caretaker or night watchman on property with an existing commercial use authorized by this section, or for the owner/operator of the use.
    - (c) Automotive body and paint business, with all outside storage totally enclosed.
    - (d) Hospital and other medical service facilities, including a residential treatment home, residential care facility, adult foster home and elderly assisted housing complex with a patient or resident capacity not exceeding 25.
  - (2) Type II conditional uses.
    - (a) Any use permitted as an outright use by this section that includes the serving of alcoholic beverages and/or any use permitted as an outright use by this section that involves open outside storage of materials except as otherwise approved as a common practice of a permitted use.
    - (b) Any building or structure that exceeds a height of 35 feet.

- (c) Welding, sheet metal, machine shop or other metal fabrication facility totally enclosed within a building.
- (d) Cabinet, carpenter, woodworking and other wood products remanufacturing totally enclosed within a building.
- (e) Recreation Vehicle (RV) campground.
- (f) Secondhand store, pawnshop and similar uses totally enclosed within a building.
- (g) Single family, two family dwelling units, triplexes, four-plexes and multi family dwelling complexes.
- (h) Machinery or heavy equipment sales, service, repair, rental and storage with all repair and storage activities totally enclosed.
- (i) Hospital and other medical service facilities including a residential treatment home, residential care facility, adult foster home and elderly assisted housing complex with patient or resident capacities of more than 25.
- (j) Convention center, business conference center, multi use pavilion, sports arena or other similar uses.
- (k) Telephone exchanges, radio and television facilities, electrical substations and other public or private utilities.
- (l) Mortuary, undertaking or funeral parlor, crematorium or mausoleum.
- (m) Laboratory for experiment, research or testing of nonhazardous materials.
- (n) Shopping or retail trade center complex; for example, any development proposal involving a combination of three or more of the uses permitted in this zone.
- (o) Government buildings and uses including armories, maintenance, repair or storage facilities.
- (p) Manufacture, assembly, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or electronic supplies and equipment, computers or components thereof, business machines, furniture, signs and similar products.
- (q) Repair, rental, sales, servicing and storage of machinery, implements, equipment, recreation vehicles and manufactured or modular homes and the manufacturing and/or assembling thereof.
- (r) Solid waste recycling facility and/or transfer station.
- (s) Golf driving range.
- (t) Construction of a new street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan or previously approved development plan.

(D) Dimensional standards. In a C-2 Zone, the following dimensional standards shall apply.

(1) For residential uses permitted in this zone, the minimum lot areas and other dimensional standards, including setbacks, set forth in the R-2 Zone shall apply.

(2) A side or rear yard abutting a residential zone shall be a minimum of ten feet.

(3) A side or rear yard abutting a residential use shall be a minimum of five feet.

(4) For all other uses permitted in this zone, the minimum lot area shall be governed by the combined yard, off-street parking, loading and other requirements set forth by this section and this chapter.

(5) A yard abutting a local street may be to the property line if in compliance with sidewalk and vision clearance requirements; a yard abutting a collector or arterial shall be in compliance with the setbacks relevant thereto, but in no case be less than 20 feet.

(6) Side building setbacks shall be as necessary to comply with building code standards regarding fire protection and with vision clearance standards.

(7) No building shall exceed a height of 35 feet except as approved otherwise as a conditional use.

(E) Signs. In a C-2 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Use limitations. In a C-2 zone, permitted uses shall be subject to the following limitations and standards; however, with the exception of subsection (F)(3) below, the provisions herein related to parking and access shall be exempted for the uses existing on or before the effective date of this chapter which occupy an existing building on a parcel of land which contains no room for parking, and this exemption shall apply to any exterior remodeling, alteration or expansion not exceeding 25% of the total area of the use as the use existed on or before the effective date of this chapter. However, all existing parking displaced by the alteration and/or expansion shall be replaced as approved by the city.

(1) Except for drive-in service windows and/or as approved otherwise by the city, all business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building. Display of merchandise along the outside wall of the building shall only be permitted on private property, and shall not in any case preclude pedestrian use of walkways, sidewalks or other pedestrian facilities; these limitations do not apply to the outside display of merchandise during a merchants or community sponsored promotional sale, or to the outside display of merchandise confined to an area or facility designed for such purpose and approved by the city.

(2) Except as may be approved otherwise by the city, all employee parking demand created by any use permitted under the provisions of this section shall be provided entirely off-street on an area or facility, public or private, designated for the use; no on-street parking shall be considered in meeting the requirement for employee parking.

(3) No use permitted in this zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress or egress to any use or the premises thereof except as otherwise approved by the city.

(4) All nonresidential uses permitted in this zone shall be screened from abutting properties in a residential zone by a sight-obscuring fence except as otherwise approved by the city.

(5) Uses in excess of 20,000 square feet of retail sales floor area shall provide customer restroom facilities.

(G) Off-street parking and loading. In a C-2 Zone, off-street parking and loading facilities shall be provided in accordance with the provisions set forth in § 153.080 et seq. Off-street parking and loading shall be required as a part of all new development and all exterior remodeling and/or expansion in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract on or before the effective date of this chapter; however, all existing displaced parking shall be replaced as approved by the city.

(H) Design review. All uses permitted in this zone are subject to the design review provisions set forth in § 153.080 et seq.

(I) Outdoor merchandising. Outdoor merchandising is permitted only as set forth in this section and in § 153.080 et seq.

(J) Minimum sidewalk width and requirements. Except as otherwise approved by the city, the minimum sidewalk width in a C-2 Zone along a street or otherwise providing pedestrian access to a use or complex of uses shall be eight feet. Where there is inadequate public right-of-way between the curb and property lines, the additional right-of-way width necessary to meet this requirement may be required as a condition of approval.

(1) However, as may be approved by the city in advance of development, the minimum sidewalk may be reduced to not less than six feet in width where the development provides porches, covered walkways or excellence in landscaping which does not impede or enhances pedestrian circulation.

(2) Sidewalks shall be constructed as a part of all new construction and any exterior remodeling and/or expansion in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract under on or before the effective date of this chapter.

(K) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development and all exterior remodeling and/or expansion in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract under unit ownership on or before the effective date of this chapter.

(Ord. 1057, passed 3-23-98)

### **§ 153.051 PROFESSIONAL COMMERCIAL C-3 ZONE.**

In a C-3 zone, the following regulations shall apply.

(A) Purpose. It is the purpose of the C-3 Zone to provide for a transitional area between the dominate commercial areas of the city that occur along major transportation routes and dominate residential areas by providing for a commercial area that is limited to uses which are most compatible with residential uses and which also complement the commercial uses to which the zone is adjacent.

(B) Uses permitted outright. In a C-3 Zone, the following uses and their accessory uses are permitted outright.

(1) Single family dwelling, including a manufactured home, served by public or municipal water supply and sewer systems, as a resumption or replacement of a previously existing dwelling.

(2) Governmental service office building, not including any maintenance facilities.

(3) Public library or museum.

(4) Professional service offices for accountants, bookkeepers, attorneys, engineers, architects, doctors, dentists, real estate and insurance.

(5) Medical or dental clinic.

(6) Studios and galleries for artists, photographers and interior decorators.

(7) Public park or other open land recreation area or facility.

(8) Replacement of bridges and other stream or canal crossing facilities.

(9) Maintenance or repair of an existing transportation facility including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(10) Temporary improvements in association with construction projects, such as temporary roads and detours.

(11) Bikeways, footpaths and recreation trails.

(12) Construction of new streets and roads, including the extensions of existing streets and roads, that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(C) Conditional uses permitted. In a C-3 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Single family dwelling, including a manufactured home, served by public or municipal water supply and sewer systems.

(b) Duplex, triplex and four-PLEX dwelling units served by public or municipal water supply and sewer systems.

(c) Home occupation conducted as an accessory use of an existing residential dwelling, limited to a use permitted by this section.

(2) Type II conditional uses.

(a) A multi family dwelling complex of more than four units served by public or municipal water supply and sewer systems.

(b) Public or private transportation station or depot and public or private parking facilities.

(c) Bed and breakfast facility in an existing dwelling.

(d) Any use permitted by this section that is not served by both public or municipal water and sewer services.

(e) Construction of a new street not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan or previously approved development plan.

(D) Dimensional standards. In a C-3 Zone, the following dimensional standards shall apply.

(1) For a residential use, the dimensional standards set forth in the R-2 Residential Zone shall apply.

(2) For all other permitted uses, the minimum lot size shall be 5,000 square feet.

(3) The main building and accessory buildings located on any lot shall not cover in excess of 50% of the total lot area.

(4) The total area of all buildings, parking areas and accesses (impervious surfaces) shall not cover in excess of 70% of the total lot area.

(5) Front yards shall not be less than ten feet.

(6) The sum of the width of side yards shall be a minimum of 12 feet, and no side yard shall be less than three feet. On corner lots, the side yard on the street side shall be a minimum of ten feet, and the sum total of the two side yards shall be 13 feet.

(7) The side yard of a nonresidential use adjacent to a residential use shall not be less than ten feet to the common property line.

(8) Rear yards shall be a minimum of ten feet.

(9) Vision clearance on corner lots shall be a minimum of 20 feet unless a greater clearance dimension is set forth in § 153.080 et seq.

(10) Vision clearance on alley-street intersections shall be a minimum of seven and one-half feet unless a greater vision clearance is set forth in § 153.080 et seq.

(11) No building or structure, nor the enlargement thereof, shall be erected to exceed two and one-half stories or 35 feet in height, whichever is lower.

(E) Signs. In a C-3 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(F) Off-street parking. In a C-3 Zone, off-street parking and loading shall be provided in accordance with the provisions of §§ 153.080 et seq.

(G) Use limitations. In a C-3 Zone, the following use limitations shall apply to all multi family residential and nonresidential uses permitted under this section.

(1) All multi family residential complexes of three or more units, or nonresidential uses permitted by this section shall be screened from abutting residential uses by densely planted trees and shrubs or a sight-obscuring fence unless otherwise approved by the city.

(2) No nonresidential use immediately abutting a single family residential use shall be permitted to operate for business between the hours of 10:00 p.m. and 6:00. a.m. except as approved otherwise by the city.

(3) No nonresidential use or multi family dwelling use permitted by this section shall require the backing of traffic onto a public street or alley right-of- way to accommodate ingress or egress to any premises.

(4) All parking demand created by any use permitted under the provisions of this section shall be accommodated on the subject premises unless otherwise approved by the city.

(5) All employee parking demand created by a nonresidential use permitted under this section shall be accommodated on the subject premises entirely off-street unless otherwise approved by the city.

(6) There shall not be more than one ingress and one egress from any property accommodating a use permitted by this section.

(7) No use shall be permitted if it will cause sound, noise, vibration, odor or flashing of a level determined a nuisance if perceptible without instruments more than 20 feet from the boundaries of the originating premises.



(H) Site design and review. In a C-3 Zone, the site design, and the review thereof, of any permitted use is subject to the design review provisions set forth in § 153.080 et seq., and shall make the most effective use reasonably possible of existing structures and landscaping, building placement, ingress and egress, additional landscaping and screening and other site improvements to minimize the effects and intrusions into the character of existing developments and land uses in the immediate area.

(I) Outdoor merchandising. Permitted only as set forth in this section and in § 153.080 et seq.

(J) Minimum sidewalk width and requirements. Unless approved otherwise by the city, the minimum sidewalk width in a C-3 Zone along a street or otherwise providing pedestrian access to a use or complex of uses, shall be six feet. Where there is inadequate public right-of-way between the curb and property lines, the additional right-of-way width necessary to meet this requirement may be required as a condition of approval. However, as may be approved by the city in advance of development, the minimum sidewalk may be reduced to not less than four feet in width where the development provides porches, covered walkways or excellence in landscaping, which does not impede or enhances pedestrian circulation. In no case, however, shall a sidewalk width be permitted which is less than existing sidewalks to which a new or replacement sidewalk is connected. Sidewalks shall be constructed as a part of new construction or remodeling in excess of 25% of the value of the structure over a three-year time period.

(K) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development and all remodeling in excess of 25% of the value of the structure over a three-year time period.

(L) Additional standards and requirements. In approving a multi family residential or nonresidential use in a C-3 Zone, the city may require additional standards and requirements considered necessary to protect the best interests of the surrounding and adjacent area. Such may include, but is not limited to the following.

- (1) Additional lot size or setback requirements.
- (2) Limitations on the placement of structures and the heights thereof.
- (3) Limitations on vehicular parking areas and ingress and egress.
- (4) Limitations on the placement and type of signs.
- (5) Require additional landscaping and screening.

(Ord. 1057, passed 3-24-98)

#### **§ 153.052 NEIGHBORHOOD COMMERCIAL C-4 ZONE.**

In a C-4 Zone, the following regulations shall apply.

(A) Purpose. The purpose of a Neighborhood Commercial C-4 Zone is to provide for limited commercial services in areas that are in close proximity to or within neighborhood residential areas. The purpose relative thereto is to provide opportunities for basic residential household needs without excessive vehicular travel.

(B) Uses permitted outright. In a C-4 Zone, the following uses and their accessory uses are permitted outright.

(1) General merchandise, grocery store, mini markets, convenience stores, delicatessens, meat markets or bakeries not exceeding 2,500 square feet of retail floor space.

(2) Artist, book, music, photography, stationery store or gallery.

(3) Dressmaking, sewing or tailor shop or shoe repair shop.

(4) Drug, sundry variety or hobby store.

(5) Florist, gift, hobby or specialty shop.

(6) Beauty and barbershops and salons.

(7) Roadside stand for the sale of farm products.

(8) Restaurant or café, excluding those serving alcoholic beverages.

(9) The resumption or replacement of a residential use where the use had previously existed.

(10) Land partitioning where no new road or street is created.

(11) Replacement of bridges and other stream or canal crossing facilities.

(12) Temporary improvements in association with construction projects, such as temporary roads and detours.

(13) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(14) Bikeways, footpaths and recreation trails.

(15) Construction of new streets and roads, including the extensions of existing streets and roads, that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(C) Conditional uses permitted. In a C-4 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Any use permitted by division (B) of this section that proposes a use exceeding 2,500 square feet of retail or service area but not exceeding 5,000 square feet

(b) Any combination of uses permitted by division (B) of this section that totals more than 5,000 square feet but less than 10,000 square feet of retail or service floor area.

(c) Television, radio or home appliance repair shop with sales of same items as a secondary use.

(d) Plumbing, electrical, building contractor and other construction related businesses; provided there is no outside storage (for example, the business is wholly enclosed within a building) and provided that there is not more than 2,500 square feet of retail or service floor area.

(e) Clothes cleaning establishment or laundromats, including self-service laundries.

(f) Nurseries and farm and/or garden supply stores provided all outside storage and display is adequately screened and the use does not require more than 2,500 square feet of lot area.

(g) Home occupation conducted in an existing dwelling or in an existing structure accessory to the dwelling, provided that all other limitations on home occupations are complied with.

(h) Public or private park, playground or similar open land recreational facility.

(i) Automobile service station, including a carwash and a convenience or mini market.

(j) Residential use in conjunction with a permitted commercial use where the residential use is secondary to the commercial use within the same building and does not exceed 25% of the total building floor area(s) of the subject commercial building.

(2) Type II conditional uses.

(a) Any use permitted by division (B) and (C)(1) of this section that exceeds the stated square footages but does not exceed more than two times the stated square footages.

(b) Any combination of two or more uses permitted by divisions (B) and (C)(1) of this section that totals more than 10,000 square feet, but not more than 20,000 square feet

(c) Offices for accountants, architects, engineers, lawyers, real estate and insurance agents, dentists, doctors, optometrists, chiropractors and osteopaths.

(d) Church, including buildings or uses essential and accessory to the operations thereof.

(e) Plumbing, electrical, building contractor and other construction related businesses proposing enclosed outside storage and/or open outside display of materials, and/or providing for more than 2,500 square feet but less than 5,000 square feet of retail or service floor area.

(f) Nurseries and farm and/or garden supply stores provided all outside storage and display is adequately screened and the use proposes more than 2,500 square feet, but less than 5,000 square feet of lot area.

(g) Public or private school, kindergarten, preschool or children day nursery, including buildings and uses essential and accessory to the operations thereof.

(h) Small animal veterinary clinic wholly enclosed within a building.

(i) Restaurant or café, including drive-ins and those proposing to serve alcoholic beverages, but only if served with meals in a dining area only.

(D) Use limitations. In a C-4 Zone, permitted uses shall be subject to the following limitations.

(1) No use shall be permitted which requires access through an existing residential area of ten or more dwelling units to an existing or future planned collector or arterial street, unless the use or the complex within which the use is located was originally planned and approved as a part of an overall development plan.

(2) No use shall be permitted which is likely to generate more than 25 auto trips both to and from the premises during the busiest hour of the day or more than 200 auto trips daily both to and from the premises unless directly served by an arterial or collector street.

(3) All parking demand created by any use permitted under the provisions of this section shall be accommodated on the subject premises entirely off-street; minimum standards for off-street parking requirements shall be in accordance with the provisions of § 153.080 et seq.

(4) No use permitted by this section shall require the backing of traffic onto a public or private street, road or alley right-of-way to accommodate ingress or egress to any use or the premises thereof.

(5) There shall not be more than one ingress and one egress from properties accommodating uses permitted by this section per each 300 feet of street frontage or fraction thereof. If necessary to meet this requirement, permitted uses shall provide for shared ingress and egress and/or marginal access roads.

(6) All nonresidential uses permitted by this section shall be screened from abutting residential uses by densely planted trees and shrubs or sight-obscuring fencing unless approved otherwise by the city.

(7) No use shall be permitted if it will cause sound, noise, vibration, odor or flashing at a level deemed a nuisance if perceptible without instruments more than 200 feet from the boundaries of the originating premises.

(8) No use shall be permitted to operate for business between the hours of 11:00 p.m. and 6:00 a.m. except as approved otherwise by the city.

(E) Dimensional standards. In a C-4 Zone, the following dimensional standards shall apply to all uses.

(1) No use permitted by this section including buildings, storage areas or facilities and required parking area shall exceed more than 70% of the land area designed for the use.

(2) The minimum building setback from a street right-of-way line shall be 20 feet unless a greater setback is required by the city for compliance with the Comprehensive Plan criteria or policies or the Transportation System Plan.

(3) The minimum setback between a structure and a property line abutting a lot occupied by a single family dwelling shall be 25 feet, and between a structure and a property line abutting a vacant residential lot 15 feet.

(4) The minimum setback between a structure and an existing use permitted by this section shall be three feet from the property line and at least ten feet from a structure on the adjoining property.

(5) The maximum building height for any structure permitted in conjunction with a use permitted by this section shall be 30 feet.

(6) The minimum lot size for residential uses shall be no less than the largest minimum lot area allowed in the adjoining residential zones.

(7) The minimum lot size for nonresidential uses shall be determined on the basis of compliance with required setbacks, lot coverage limitations, off-street parking and loading requirements and other applicable dimensional standards.

(8) No use permitted by this section shall be permitted on a lot with a street frontage of less than 50 feet unless otherwise served by a marginal access road or

other access facilities providing a common access for a combination of uses permitted by this section, or as otherwise approved by the city.

(F) Signs. In a C-4 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(G) Off-street parking. In a C-4 Zone, off-street parking and loading shall be provided in accordance with the provisions of this section and § 153.080 et seq.

(H) Outdoor merchandising. Permitted only as set forth in this section and in § 153.080 et seq.

(I) Minimum sidewalk width and requirements. Unless approved otherwise by the city, the minimum sidewalk width in a C-4 Zone along a street, or otherwise providing pedestrian access to a use or complex of uses, shall be six feet. Where there is inadequate public right-of-way between the curb and property lines, the additional right-of-way width necessary to meet this requirement may be required as a condition of approval. However, as may be approved by the city in advance of development, the minimum sidewalk may be reduced to not less than four feet in width where the development provides porches, covered walkways or excellence in landscaping which does not impede or enhances pedestrian circulation. In no case, however, shall a sidewalk width be permitted which is less than existing sidewalks to which a new or replacement sidewalk is connected. Sidewalks shall be constructed as a part of new construction or remodeling in excess of 25% of the value of the structure over a three-year time period.

(J) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development and all remodeling in excess of 25% of the value of the structure over a three-year time period.

(K) Site design and review. In a C-4 Zone, the site design, and the review thereof, of any permitted use is subject to the design review provisions set forth in § 153.080 et seq. of this chapter, and shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking areas from public ways and minimize intrusion into the character of existing developments and land uses in the immediate area.

(L) Additional standards and requirements. In approving a nonresidential use in a C-4 Zone, the city may require additional standards and requirements considered necessary to protect the best interests of the surrounding and adjacent area. Such may include, but is not limited to the following.

- (1) Additional lot size or setback requirements.
- (2) Limitations on the placement of structures and the heights thereof.
- (3) Limitations on vehicular parking areas and ingress and egress.
- (4) Limitations on the placement and type of signs.
- (5) Require additional landscaping and screening.

(Ord. 1057, passed 3-24-98)

### **§ 153.053 RECREATION COMMERCIAL C-5 ZONE.**

In a C-5 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the Recreation Commercial C-5 Zone is to provide for those commercial uses which are most closely related to the recreation tourism resources of the area in which the zone is located. The recreation tourism

resources of the one area to which this zone is initially designated include the County Fairgrounds, the Crooked River, the Crooked River-Les Schwab Fields complex and Highway 27 providing access to the Prineville Reservoir and the Crooked River Back Country Area which includes significant geological features such as Chimney Rock and the Palisades. Uses permitted in this zone are to be limited in retail floor space in order to minimize the competitive level with the Downtown Core Commercial area of the city.

(B) Uses permitted outright. In a C-5 Zone, except as provided for in this division (C) of this section, the following uses and their accessory uses are permitted outright.

(1) General merchandise, grocery store, delicatessen, meat market, bakery, clothing or other apparel, convenience store or mini market not exceeding 2,500 square feet of retail floor space.

(2) Farm and livestock supplies, equipment and accessories sales and services with buildings not exceeding 2,500 square feet of retail floor space and total lot area not exceeding 5,000 square feet.

(3) Artist, book, music or photography store or gallery.

(4) Rock or gem shop, jewelry, gift shop or other specialty shop related to the recreation- tourism industry.

(5) Sporting goods, gun and tackle, bait shop and other sports, recreation or athletic related equipment and apparel stores.

(6) Offices for real estate and insurance agents.

(7) Beauty and barbershops and salons, health and fitness centers, tanning and reducing salons and similar personal services.

(8) Laundromats or clothes-cleaning establishments.

(9) Video/movie rental and sales businesses.

(10) Automobile rental and travel agencies.

(11) Saddle, harness and other leather goods businesses.

(12) Health studio, physical therapist, reducing salon, health and fitness centers.

(13) Florist, excluding nursery and greenhouse.

(14) Pet shop and/or veterinary clinic, but excluding kennels and other animal holding facilities.

(15) Bed and breakfast facility in an existing dwelling.

(16) Eating and drinking establishment, not including drive-ins or those serving alcoholic beverages.

(17) Public or private utility lines and facilities necessary for public service.

(18) Public or private transportation station or depot and public or private parking facility.

(19) Public or private park, playground, fairgrounds, golf course, "Pitch 'n' Putt" golf, miniature golf and similar recreational facilities, excluding amusement parks and similar intensive type uses.

(20) Resumption or replacement of an existing single family dwelling, including a manufactured home.

(21) Land partitioning where no new road or street is created.

(22) Replacement of bridges and other stream or canal crossing facilities.

(23) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(24) Temporary improvements in association with construction projects, such as temporary roads and detours.

(25) Bikeways, footpaths and recreation trails.

(26) Construction of new streets and roads, including the extensions of existing streets and roads that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(C) Conditional uses permitted. In a C-5 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Any combination of two or more uses permitted by division (B) of this section that totals more than 5,000 square feet but less than 10,000 square feet of retail or service floor area.

(b) Any use permitted by division (B) of this section that proposes a use exceeding 2,500 square feet but not more than 5,000 square feet of retail or service floor area, except where other square footages are specifically stated.

(c) Nurseries and farm and/or garden supply stores provided all outside storage and display is adequately screened and the use does not require more than 5,000 square feet of lot area.

(d) Home occupation conducted in an existing dwelling, or in an existing structure accessory to the dwelling, provided that all other limitations on home occupations are complied with.

(e) Restaurant or café, including drive-ins, provided no alcoholic beverages are served except with meals in a dining area only.

(f) Residential use in conjunction with a permitted commercial use where the residential use is secondary to the commercial use and does not exceed 30% of the total building floor area(s) on the subject lot or parcel.

(g) Church, including buildings and uses essential and accessory to the operations thereof.

(h) Public or private school, kindergarten, preschool or children day nursery, including buildings and uses essential and accessory to the operations thereof.

(i) Governmental structure or land use including, but not limited to, office buildings, recreation building, fire or other emergency services station, library, museum, sewer system facility, water source or pumping station.

(2) Type II conditional uses.

(a) Any use permitted by divisions (B) and (C)(1) of this section that exceeds more than 5,000 square feet but not more than 10,000 square feet of retail floor area unless otherwise specifically provided for.

(b) Any use permitted by divisions (B) and (C)(1) of this section that proposes a use exceeding 10,000 square feet of retail or service area.

(c) Any combination of uses permitted by divisions (B) and (C)(1) of this section that totals more than 10,000 square feet but not more than 20,000 square feet of retail or service floor area.

(d) Nurseries and farm and/or garden supply stores including outside storage and display, and/or the use proposes more than 5,000 square feet but not more than 10,000 square feet of lot area.

(e) Veterinary clinic wholly enclosed within a building, but including kennels and other animal holding facilities also enclosed within a building.

(f) Automobile service station, including a carwash and a convenience store or mini-market.

(g) Recreation vehicle sales and service including boats, travel trailers, motorcycles, bicycles, snowmobiles and the like.

(h) Eating or drinking establishment serving alcoholic beverages, including restaurant with lounge, and nightclub or tavern in conjunction with a restaurant.

(i) Theater or performing arts center, including a drive-in theater and outdoor amphitheater.

(j) Community building, fraternal, professional, industry or social organizational building, including those serving alcoholic beverages.

(k) Hotel, motel or similar travelers' accommodations, including recreation vehicle campground.

(l) Convention center, business conference center, multi use pavilion, sports arena or other similar uses.

(m) Private or public enclosed recreational or amusement facilities including pool/billiard hall, bowling, dance hall, skating rink, video arcade and the like including those establishments serving alcoholic beverages.

(n) Telephone exchanges, radio and television facilities, electrical substations and other public or private utilities.

(o) Other retail trade or business establishments or other uses found similar to or compatible with the existing uses in the C-5 Zone or in compliance with the Comprehensive Plan and/or any other area specific plan, or directly related, supportive or complementary to the identified recreation-tourism resources of the area.

(D) Dimensional standards. In a C-5 Zone, the following dimensional standards shall apply.

(1) For residential uses permitted in this zone, the minimum lot areas set forth in the R-2 Zone shall apply.

(2) The minimum lot size for nonresidential uses shall be determined on the basis of compliance with required setbacks, lot coverage limitations, off-street parking and loading requirements and other applicable dimensional standards.

(3) The main building and accessory buildings located on any lot or property shall not cover in excess of 50% of the total lot area.

(4) The total area of all buildings, parking areas and accesses (that is, impervious surfaces) shall not cover in excess of 75% of the total lot area.



(5) The minimum front yard building setback from a street right-of-way line for a collector or an arterial, existing or planned, shall be 20 feet unless a greater setback is required by the city for compliance with the Comprehensive Plan criteria or policies or the Transportation System Plan.

(6) For a side or rear yard abutting a local street, a commercial building may be constructed to the property line if in compliance with sidewalk requirements and vision clearance requirements; for a yard abutting a collector or arterial street the setback shall be 20 feet.

(7) The minimum setback between a structure and a property line abutting a lot occupied by a single family dwelling shall be 10 feet, unless otherwise approved by the city.

(8) The minimum setback between a structure and an existing use permitted by this section shall be three feet from the property line and at least six feet from a structure on the adjoining property.

(9) The maximum building height for any structure permitted in conjunction with a use permitted by this section shall be 45 feet, unless otherwise approved by the city.

(10) The sum of the width of side yards shall be a minimum of 12 feet, and no side yard shall be less than three feet. On corner lots, the side yard on the street side shall be a minimum of ten feet and the sum total of the two side yards shall be 13 feet.

(11) Rear yards shall be a minimum of five feet, however, a rear yard abutting a residential use or zone shall be a minimum of 10 feet.

(E) Use limitations. In a C-5 Zone, permitted uses shall be subject to the following limitations and standards.

(1) Except as approved otherwise by the city, particularly as such is common to a specific use type, all business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building or other approved enclosure, except for drive-in windows. Display of merchandise along the outside wall of the building shall not extend more than three feet from the wall, and be on private property only, except during a city approved merchants, community, fairgrounds, parks or other nonprofit organizational sponsored promotional sale or event; the sales and/or events occurring on a regular annual basis need not be approved annually, but may be approved by the city on an ongoing basis as annual events.

(2) All employee parking demand created by any use permitted under the provisions of this section shall be provided entirely off-street except as approved otherwise by the city. Employee parking demand shall be subject to the standards set forth in § 153.080 et seq.

(3) All parking demand created by a use permitted in this zone shall be accommodated on the subject premises except as otherwise approved by the city.

(4) No use permitted in this zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress or egress to any use or the premises thereof except as otherwise approved by the city.

(5) All nonresidential uses permitted in this zone shall be screened from abutting properties in a residential zone by a sight-obscuring fence except as otherwise approved by the city.

(F) Signs. In a C-5 Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(G) Off-street parking and loading. In a C-5 Zone, off-street parking and loading shall be provided in accordance with the provisions of this section and § 153.080 et seq.

(H) Outdoor merchandising. Outdoor merchandising is permitted only as set forth in this section and in § 153.080 et seq.

(I) Minimum sidewalk width and requirements. Unless approved otherwise by the city, the minimum sidewalk width in a C-5 Zone along a street or otherwise providing pedestrian access to a use or complex of uses shall be six feet. Where there is inadequate public right-of-way between the curb and property lines, the additional right-of-way width necessary to meet this requirement may be required as a condition of approval. However, as may be approved by the city in advance of development, the minimum sidewalk may be reduced to not less than four feet in width where the development provides porches, covered walkways or excellence in landscaping which does not impede or enhances pedestrian circulation. In no case, however, shall a sidewalk width be permitted which is less than existing sidewalks to which a new or replacement sidewalk is connected. Sidewalks shall be constructed as a part of new construction or remodeling in excess of 25% of the value of the structure over a three-year time period.

(J) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development and all remodeling in excess of 25% of the value of the structure over a three-year time period.

(K) Site design and review. In a C-5 Zone, the site design, and the review thereof, of any permitted use is subject to the design review provisions set forth in § 153.080 et seq., and shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking areas from public ways and minimize intrusion into the character of existing developments and land uses in the immediate area.

(L) Use criteria. In addition to the standards and regulations set forth by this section relative to a permitted use under this section, and in addition to standards and regulations that may be set forth by § 153.135 et seq. or other sections of this chapter relative to a specific use, the following criteria shall be considered by the city in approving or denying an application for a use permitted under this section.

(1) An application for a use permitted by this section may be denied if, in the findings of the city, the proposed use is not related to or beneficial to the recreation-tourism resources or industry, or the overall economic and social amenities of the community, the city and the county.

(2) An application for a use permitted by this section may be denied if the applicant fails to demonstrate that the proposed location is beneficial relative to the recreation-tourism sector and/or the overall economics and social amenities to be served, and to the benefit of the general public relative to the full development of the recreation-tourism resources of the community, the city and the county.

(M) Additional standards and requirements. In approving a nonresidential use in a C-5 Zone, the city may require additional standards and requirements considered

necessary to protect the best interests of the surrounding and adjacent area. Such may include, but is not limited to the following.

- (1) Additional lot size or setback requirements.
- (2) Limitations on the placement of structures and the heights thereof.
- (3) Limitations on vehicular parking areas and ingress and egress.
- (4) Limitations on the placement and type of signs.
- (5) Require additional landscaping and screening.

(Ord. 1057, passed 3-24-98)

**§ 153.054 LIMITED INDUSTRIAL M-1 ZONE.**

In an M-1 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the Limited Industrial M-1 Zone is to provide for a wide range of industrial uses, but limiting or excluding those industrial uses which are generally not considered compatible with adjoining commercial or residential areas and which, in many cases, involve industrial uses which involve hazardous or nuisance creating conditions.

(B) Uses permitted outright. In an M-1 Zone, the following uses and their accessory uses are permitted outright.

- (1) Retail, wholesale or service business establishment except as otherwise provided for in division (C) of this section.
- (2) Residence, including a modular or manufactured home for a caretaker or night watchman on property with an existing industrial or commercial use permitted in this zone, or for the owner/operator of the use.
- (3) Private or public transportation station or depot.
- (4) Contractor's or building materials business, and other construction related business, including plumbing, electrical, roofing, siding and the like with enclosed outside storage of materials and equipment.
- (5) Ice or cold storage plant, bottling plant or food processing and/or packaging plant including enclosed outside storage.
- (6) Wholesale distribution outlet, including warehousing, and including enclosed/ sight-obscuring fenced outside storage and product display common to the use.
- (7) Welding, sheet metal, machine shop or other metal fabrication establishment, including enclosed outside storage.
- (8) Veterinary clinic or kennel totally enclosed within a building.
- (9) Laboratory for experiment, research, testing and education of nonhazardous materials.
- (10) Compounding, packaging and storage of cosmetics, drugs, perfumes, pharmaceuticals, soap or toiletries, excluding refining or rendering of fats and oils.
- (11) Government buildings including armories, maintenance, repair or storage facilities, including enclosed outside storage of equipment and materials.
- (12) Manufacture, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or electronic supplies and equipment, business machines, boats, furniture, signs, metal goods, tires and similar operations, including enclosed/sight-obscuring fenced outside storage of equipment and materials.

(13) Lumber and other wood products manufacturing or remanufacturing provided all manufacturing is within an enclosed building.

(14) Repair, rental, sales, servicing and storage of machinery, implements, equipment, recreation vehicles, delivery and service vehicles, mobile or modular homes and the manufacturing and/or assembling of all items listed herein, including enclosed/sight-obscuring fenced outside storage of equipment and materials.

(15) Automobile and truck sales and service, including service stations and truck stops with cafes, convenience stores, carwashes and other directly related types of uses.

(16) Machinery or heavy equipment sales, service, repair, rental and storage, provided all repair and service work on-site is within a building, and including open/outside display of equipment for sale, but requiring all equipment for repair and materials therefor be enclosed.

(17) Farm, feed and/or garden supply business including enclosed storage with open display of equipment and goods, but excluding on-site processing, not totally enclosed within a building.

(18) Storage building(s) and/ or facilities for household goods and recreational vehicles or equipment.

(19) Taxidermy, totally enclosed within a building.

(20) Utility facilities necessary for public service.

(21) Farming or farm use or a commercial use commonly associated with farm use.

(22) Resumption or replacement of an existing single family dwelling, including a manufactured home.

(23) Land partitioning where no new road or street is created.

(24) Replacement of bridges and other stream or canal crossing facilities.

(25) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(26) Temporary improvements in association with construction projects, such as temporary roads and detours.

(27) Bikeways, footpaths and recreation trails.

(28) Construction of new streets and roads, including the extensions of existing streets and roads that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(29) Tire manufacturing business, which includes all of the following elements: tire and tire equipment manufacturing, retail sales, distribution, warehousing, trucking and associated repair and office facilities.

(C) Conditional uses permitted. In a M-1 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Automobile and other automotive wrecking yard, including enclosed outside storage of vehicles and materials.

(b) The resumption of a residential use, including a manufactured or modular home, where the subject use has previously been conducted and has not been discontinued for a period exceeding one year.

(c) Any use permitted in division (B) of this section as an outright use where buildings are proposed to occupy more than 70% of the total lot or parcel area.

(d) Any use permitted in division (B) of this section as an outright use that is adjacent to or within 100 feet of an existing residential zone, or within 200 feet of an existing hospital, nursing or convalescent home or similar noise sensitive use, measured horizontally from the actual use or development.

(e) Any use permitted in division (B) of this section that is located within an airport approach zone.

(f) Governmental structure or land use not specifically permitted in division (B) of this section.

(g) Community, fraternal or social organizational building.

(h) Telephone, radio and television facilities and electrical and other public or private utility facilities.

(i) Secondhand store, pawn shop; sales, service and repair, including enclosed/outside storage and display.

(j) Mortuary, undertaking or funeral parlor, including crematorium.

(k) Utility substations.

(2) Type II conditional uses.

(a) Except as otherwise provided herein, any use proposing open/outside storage of equipment and materials that is permitted in division (B) of this section as an outright use excluding open/outside storage of equipment and/or materials.

(b) Concrete or ready-mix plants or quarry or other mining operation, or asphalt plants.

(c) Agricultural products storage and processing plants, including agricultural fertilizer and chemical operations.

(d) Petroleum, synthetic or other fuel producing and/or packaging plant, and by-products thereof, including storage and distribution.

(e) Commercial utility facilities or other facilities for the purpose of generating power for sale.

(f) Operations conducted for the mining and processing of geothermal resources.

(g) Solid waste transfer station and/or recycling facility.

(h) Temporary mobile home or recreation vehicle park.

(i) Any other retail trade, business or industrial uses found similar to or compatible with the existing uses in the M-1 Zone that has not been declared a nuisance by the city, the county or a court of competent jurisdiction, provided the use is not expected to create a nuisance because of odor, noise, dust, smoke, gas, traffic or other factors, is found to be in compliance with applicable nuisance and pollution regulations and is not specifically permitted

in another zone.

(D) Dimensional standards. In an M-1 Zone, the following dimensional standards shall apply.

(1) The minimum lot area shall be determined in accordance with the provisions of this section and this chapter relative to yard and other setback requirements, off-street parking and loading requirements and any additional area as deemed necessary by the city to maintain air, water and land resource quality and to protect adjoining and area land uses.

(2) The minimum building setback between a structure and the right-of-way line of a street or railway shall be 20 feet except as otherwise required or approved by the city.

(3) A side yard abutting a residential zone shall be a minimum of 20 feet unless otherwise approved by the city.

(4) A rear yard abutting a residential zone shall be a minimum of 20 feet unless otherwise approved by the city.

(5) No building shall exceed a height of 45 feet except as otherwise approved by the city.

(E) Signs. In an M-1 Zone, signs are permitted in accordance with the provisions of Ch. 152 as amended, or as otherwise required in § 153.080 et seq.

(F) Off-street parking and loading. In an M-1 Zone, off-street parking and loading facilities shall be provided in accordance with the provisions set forth in § 153.080 et seq. for all new development and all exterior remodeling and/or expansions in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract under a unit ownership on or before the effective date of this chapter; provided, however, that any existing parking that is displaced by the remodeling and/or expansion is replaced.

(G) Use limitations. In an M-1 Zone, permitted uses shall be subject to the following limitations and standards.

(1) No use shall be permitted which has been declared a nuisance by action of the city, the county or by a court of competent jurisdiction.

(2) No use is permitted which is reasonably expected to create a nuisance because of noise, smoke, odor, dust or gas.

(3) For uses requiring pollution or contaminant discharge permits by an agency other than the city, final approval for the use shall not be issued by the city prior to review and approval by the applicable permit reviewing authority(ies).

(4) Materials shall be stored and grounds maintained in a manner as to prevent the attraction of or aid in the propagation of insects or rodents, or in a manner as to not otherwise create a public health hazard or attractive nuisance hazard.

(5) Points of access from a public street or way to properties and uses in this zone shall be so located, constructed, maintained and controlled as to minimize traffic congestion, noise and dust pollution, and shall avoid directing traffic onto residential streets or onto streets passing directly through residential, school, hospital or other noise sensitive use areas and safety zones.

(6) All parking demand created by any use permitted in this zone shall be accommodated entirely on-premises or off-street on another area or adjoining premises shared by one or more uses permitted in this zone.

(7) No use permitted in this zone shall require the backing of traffic onto a public right-of-way to accommodate ingress and egress to the subject use, except as otherwise approved by the city.

(8) All uses permitted in this zone may be required to be screened from abutting residential zones by a sight-obscuring fence except those permitted uses listed in division (B) of this section existing on or before the effective date of this chapter.

(9) Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise or otherwise adversely affect land uses in the affected residential zone.

(10) Except as approved otherwise by the city in accordance with applicable access management provisions, there shall not be more than one ingress and one egress from properties accommodating uses permitted by this section. To minimize the number of the accesses within any given street section, permitted uses may be required to provide for shared ingress and egress or provide frontage roads.

(H) Site design and review. In an M-1 Zone, the site design, and the review thereof, of any permitted use is subject to the design review provisions set forth in § 153.080 et seq., and shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring residential uses and to minimize intrusion into the character of existing developments and land uses in the immediate area.

(I) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. shall be required for all new development in the M-1 Zone.

(J) Use criteria. In the consideration of an application for a proposed use in a M-1 Zone, the city shall take into account the impact of the proposed use on nearby residential and commercial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services and on the appearance of the proposal. In the approval of an application, the city shall find that any identified measurable adverse social, economical, physical or environmental impacts are minimized or reasonably mitigated.

(K) Additional requirements. As a condition of approval of any use proposed within a M-1 Zone, the city may require the following.

- (1) An increase in required setbacks.
- (2) Additional off-street parking and loading facilities.
- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.
- (4) Additional landscaping, screening and other improvements.
- (5) Any other conditions considered necessary to achieve compliance with the intent and purposes of this chapter and policies of the Comprehensive Plan.

(Ord. 1057, passed 3-24-98)

**§ 153.055 GENERAL INDUSTRIAL M-2 ZONE.**

In an M-2 Zone, the following provisions shall apply.

(A) Uses permitted outright. In an M-2 Zone, the following uses and their accessory uses are permitted outright except as otherwise limited by division (B) of this section.

- (1) Farming and farm use, including the on-site storage and processing of farm products produced on-site or on other lands owned, lease, rented or otherwise farmed by the owner/operator.
- (2) Residence, including a modular or manufactured home, for a caretaker or night watchman on property with an existing use permitted by this section, or for the owner/operator of the use.
- (3) Public or private transportation station, freight depots or terminals, including railroad facilities, semi-truck parking and staging and public or private parking facilities.
- (4) Truck or other heavy equipment sales and service.
- (5) Wholesale and retail distribution outlet, including warehousing and associated enclosed/fenced outside storage.
- (6) Welding, sheet metal, machine or other metal fabrication shop.
- (7) Construction related business, warehousing, storage, sales, and distribution, including open storage.
- (8) Veterinary clinic or kennel, including outside, open holding facilities for livestock.
- (9) Government buildings including armories, maintenance, repair or storage facilities including open storage.
- (10) Lumber manufacturing, remanufacturing and other wood processing, except pulp and paper manufacturing.
- (11) Compounding, packaging, storage and distribution of cosmetics, drugs, perfumes, pharmaceutical, soaps or toiletries and the like, not including refining or rendering of fats and oils for the products.
- (12) Manufacture, assembly, repair or storage of ceramic products, musical instruments, novelties, toys, optical goods, scientific or electronic appliances and equipment, business machines, computers, boats, manufactured and modular homes, furniture, signs, metal goods, tires and similar manufacturing, including associated enclosed/fenced outside storage of equipment and materials.
- (13) Railroad trackage and related facilities including railroad equipment manufacturing and repair.
- (14) Manufacture, repair or storage of articles from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, metal, wax, wire, wood, rubber, yarn and similar materials.
- (15) Home occupation or cottage industry conducted in an existing dwelling or in a structure accessory to the dwelling provided that all other limitations on home occupations or cottage industries are complied with.
- (16) Storage buildings and/or facilities, not including those used for commercial sales and/or service, either wholesale or retail.



(17) Automobile and truck sales and service, including automotive fueling stations and truck stops with cafes, carwashes, auto and truck repair, convenience store, tire centers and other directly related types of uses as an accessory use thereto, including but not limited to retail and wholesale tire and brake sales, installation and maintenance and repairs and other directly related types of uses, including associated open or canopied service and enclosed or canopied storage.

(18) Farm, feed and/or garden supply business including plant nurseries and greenhouses with open storage and/or display of equipment and goods, and including on-site processing not totally enclosed within a building.

(19) Utility facilities necessary for public service.

(20) Tire manufacturing business, which includes all of the following elements: tire and tire equipment manufacturing, retail sales, distribution, warehousing, trucking and associated repair and office facilities.

(B) Conditional uses. In an M-2 Zone, the following uses and their accessory uses are permitted, when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Any use permitted in division (A) of this section as an outright use that is located adjacent to, within 100 feet of, or across the street from an existing residential zone where buildings are proposed to occupy more than 70% of the total lot or parcel area.

(b) Any use permitted division (A) of this section as an outright use that is adjacent to or within 100 feet of an existing residential zone, or within 200 feet of an existing hospital, nursing or convalescent home or similar noise sensitive use, measured horizontally from the actual development or use, except those uses permitted in division (A) of this section as they existed, on or before the effective date of this chapter, including any exterior expansion, alteration or remodeling thereof not to exceed 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract under a unit ownership on or before the effective date of this chapter.

(c) The resumption or replacement of a residential use where the subject use has previously been conducted and the use or structure has not been abandoned or removed for a period of more than one year.

(d) Automotive wrecking yard subject to the provisions set forth in § 153.135 et seq.

(e) Livestock sales yard and slaughter house totally enclosed within a building, but including outside loading/unloading facilities.

(f) Quarry, gravel pit, subsurface or surface mining, including crushing, screening and washing of extracted materials subject to approval of the state Department of Geology & Mineral Industries, and for a site included within a required Goal 5 resource site inventory.

(g) Concrete or concrete products manufacturing and distribution.

(h) Taxidermy.

(i) Solid waste transfer station and/or recycling facility.

(j) Commercial operation for agricultural products processing, storage and distribution.

(k) Ice, cold storage, bottling, food processing and/or packaging plant or distribution center.

(l) Petroleum products, storage and distribution.

(m) Compounding, packaging, storage and distribution of cosmetics, drugs, perfumes, pharmaceutical, soaps or toiletries and the like, including refining or rendering of fats and oils for such products.

(n) Processing, packaging and storage of foods or beverages including distillation, fermentation, rendering of fats or oils and slaughtering.

(2) Type II conditional uses.

(a) Commercial livestock feed lot, stockyards, sales yards and slaughter house where all activities are not enclosed within a building.

(b) Chemical, manufacturing or storage including fertilizer manufacturing, wet mixing or sulfuric acid manufacturing.

(c) Glue manufacturing.

(d) Acid manufacture and explosive manufacture and storage.

(e) Pulp and paper mill.

(f) Cement, lime, gypsum or plaster of paris manufacturing.

(g) Petroleum or petroleum products refining.

(h) Asphalt plant.

(i) Rendering plant and tannery.

(j) Quarry, gravel pit, subsurface or surface mining, including crushing, screening and washing of extracted materials subject to approval of the state Department of Geology & Mineral Industries, and for a site not included within a required Goal 5 resource site inventory.

(k) Temporary recreation vehicle park.

(l) Any other manufacturing use not specifically listed in divisions (A) and (B)(1) of this section, except a use that has been declared a nuisance by statute or by action of the city, the county or by a court of competent jurisdiction, provided the use is not expected to create a nuisance because of odor, noise, dust, smoke, gas, traffic or other factors, is found to be in compliance with applicable nuisance and pollution regulations, and is not specifically permitted in another zone.

(C) Dimensional standards. In an M-2 Zone, the following dimensional standards shall apply.

(1) The minimum lot area shall be determined in accordance with the provisions of this section and this chapter relative to yard and other setback requirements, off-street parking and loading requirements and the additional area as deemed necessary by the city to maintain air, water and land resource quality and to protect adjoining and area land uses.

(2) The minimum building setback between a structure and the line of a street or railroad shall be 20 feet except as otherwise required or approved by the city.

(3) A side yard abutting a residential zone shall be a minimum of 25 feet unless otherwise approved by the city.

(4) A rear yard abutting a residential zone shall be a minimum of 25 feet unless otherwise approved by the city.

(5) No building shall exceed a height of 45 feet except as otherwise approved by the city.

(D) Signs. In an M-2 Zone, signs are permitted in accordance with the provisions of Ch. 152 as amended, or as otherwise required in § 153.080 et seq.

(E) Off-street parking and loading. In an M-2 Zone, off-street parking and loading facilities shall be provided in accordance with the provisions set forth in § 153.080 et seq.; such shall be required for all new development and for all exterior remodeling and/or expansion in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract under unit ownership on or before the effective date of this chapter.

(F) Use limitations. In an M-2 Zone, permitted uses shall be subject to the following limitations and standards.

(1) No use shall be permitted which has been declared a nuisance by action of the city, the county or by a court of competent jurisdiction.

(2) No use is permitted which is expected to create a nuisance because of noise, smoke, odor, dust or gas.

(3) For uses requiring pollution or contaminant discharge permits by an agency other than the city, final approval for the use shall not be issued by the city prior to review and approval by the applicable permit reviewing authority(ies).

(4) Materials shall be stored and grounds maintained in a manner as to prevent the attraction of or aid in the propagation of insects or rodents, or in a manner as to not otherwise create a public health hazard or attractive nuisance hazard.

(5) No use permitted in this zone shall require the backing of traffic onto a public right-of-way to accommodate ingress and egress to the subject use, except as otherwise approved by the city.

(6) Points of access from a public street or way to properties and uses in this zone shall be so located, constructed, maintained and controlled as to minimize traffic congestion, noise and dust pollution, and shall avoid directing traffic onto residential streets or onto streets passing directly through residential, school, hospital or other noise sensitive use areas and safety zones.

(7) All parking demand created by any use permitted in this zone shall be accommodated entirely on-premises or off-street on another area or adjoining premises shared by one or more uses permitted in this zone. The location of any off-premises parking area that requires pedestrians to cross an arterial or collector street or highway to obtain access to the subject use is not prohibited, but the location may create a safety hazard and the city strongly discourages such. Therefore the location of the parking area shall be at the applicant's risk, and neither the city, nor any employee thereof, shall be liable for any accidents or injuries resulting from the parking area location, neither shall the city be responsible to provide crossing facilities or other safety provisions to accommodate the parking area location. By issuing the permit requested by the applicant, the applicant shall indemnify and defend the city from any such claims for injuries or property damage arising out of the use of the parking area (including but not limited to crossing the arterial or collector street or highway).

(8) All uses permitted in this zone shall be screened from abutting residential zones by a sight-obscuring fence, except those permitted uses listed in division

(A) of this section existing on or before the effective date of this chapter, or as otherwise approved by the city.

(9) Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise or otherwise adversely affect land uses in the affected residential zone.

(10) Except as otherwise approved or required by the city or the Oregon Department of Transportation in accordance with applicable access management provisions, there shall not be more than one ingress and one egress from properties accommodating uses permitted by this section. To minimize the number of the accesses within any given street section, permitted uses may be required to provide for shared ingress and egress, or provide frontage roads.

(G) Site design and review. In an M-2 Zone, the site design, and the review thereof, of any permitted use is subject to the design review provisions set forth in § 153.080 et seq., and shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring residential uses and to minimize intrusion into the character of existing developments and land uses in the immediate area.

(H) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development in the M-2 Zone.

(I) Use criteria. In the consideration of an application for a proposed use in a M-2 Zone, the city shall take into account the impact of the proposed use on nearby residential and commercial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services and on the appearance of the proposal. In the approval of an application, the city shall find that any identified measurable adverse social, economical, physical or environmental impacts are minimized or reasonably mitigated.

(J) Additional requirements. As a condition of approval of any use proposed within a M-2 Zone, the city may require the following.

- (1) An increase in required setbacks.
- (2) Additional off-street parking and loading facilities.
- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.
- (4) Additional landscaping, screening and other improvements.
- (5) Any other conditions considered necessary to achieve compliance with the intent and purposes of this chapter and the applicable policies of the Comprehensive Plan.

(Ord. 1057, passed 3-24-98)

### **§ 153.056 INDUSTRIAL PARK M-3 ZONE.**

In an M-3 Zone, the following regulations shall apply.

(A) Purpose. The purpose of the Industrial Park M-3 Zone is to provide for a variety of commercial, wholesale, trade and distribution, bulk retailing and industrial uses in a park or planned unit development type setting where visual appearance is a prime consideration. Uses permitted in this zone should require little or no outdoor storage of

products, materials or equipment except as may otherwise be permitted in approved landscaped display areas. In many cases, such will require the limiting or exclusion of those commercial and industrial uses which commonly involve open, outside storage and outside operations that are not aesthetically attractive, that are commonly found in more intensive type industrial settings and/or involve hazardous or nuisance creating conditions, real or potential. Relative thereto, the provisions of this section are intended to do as follows.

(1) Provide a mix of clean and attractive industries and commercial uses which have no on-site or off-site impacts in terms of noise, odor, glare, lights, smoke, dust or visual types of impacts.

(2) Provide for combining building materials and appearances, parking, landscaping and other design features which physically enhance the overall attractiveness of the area.

(3) Establish and maintain high aesthetic standards and preserve and enhance the natural features of the area.

(4) Encourage originality, flexibility and innovation in site planning and development, including architecture, landscaping and graphic design.

(B) Uses permitted outright. In an M-3 Zone, the following uses and their accessory uses are permitted outright when they satisfy the purposes of this zone, and the performance design standards, operational impact standards and the limitations set forth in divisions (E), (F) and (G) of this section respectively.

(1) Business and professional offices, including product design, sales, service, packaging, corporate headquarters or regional offices.

(2) Professional offices for architect/ designer, accountant, attorney, engineer/ surveyor, insurance agent, investment counselor, travel agent and similar business services that support or complement the other permitted and existing uses in the M-3 Zone.

(3) Scientific research or experimental development of materials, methods or products, including engineering and laboratory research, or film offices and laboratories, and including testing facilities.

(4) Manufacturing, processing, fabrication, packaging or assembly of products, not including the primary processing of raw materials.

(5) Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing.

(6) Administrative, educational and other related activities and facilities in conjunction with a permitted use.

(7) Trade or other technical skill schools primarily serving the business communities within the area or region.

(8) Contractor's or building materials business, and other construction related businesses including plumbing, electrical, roofing, siding and the like totally within a building, including all storage.

(9) Ice or cold storage plant, bottling plant or food processing and/or packaging plant totally enclosed within a building, but not including the production of fish or meat products, or fermented foods such as sauerkraut, vinegar or the like or the rendering of fats and oils.

(10) Wholesale distribution outlet, including warehousing, totally within a building, but outside product display common to the use in an approved landscaped display area.

(11) Enclosed storage facilities including mini-warehouse operations, but excluding outdoor storage of vehicles, boats and recreation vehicles.

(12) Welding, sheet metal, machine shop or other metal fabrication establishment, totally within a building.

(13) Veterinary clinic or kennel totally enclosed within a building.

(14) Compounding, packaging and storage of cosmetics, drugs, perfumes, pharmaceuticals, soap or toiletries, excluding refining or rendering of fats and oils.

(15) Government buildings including armories, maintenance, repair or storage facilities, not including outside storage of equipment and materials.

(16) Manufacture, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or electronic supplies and equipment, business machines, boats, furniture, signs, metal goods, tires and similar operations totally within a building.

(17) Tire manufacturing business, which includes all of the following elements: tire and tire equipment manufacturing, retail sales, distribution, warehousing, trucking and associated repair and office facilities wholly enclosed within a building.

(18) Utility facilities necessary for public service.

(19) Land partitioning where no new road or street is created.

(20) Maintenance or repair of an existing transportation facility, including reconstruction, surfacing, minor widening or realignment of an existing road within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes unless provided for within a locally adopted transportation system plan (TSP), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(21) Temporary improvements in association with construction projects, such as temporary roads and detours.

(22) Bikeways, footpaths and recreation trails.

(23) Construction of new streets and roads, including the extensions of existing streets and roads that are included within locally adopted transportation safety plans (TSPs) (as may be amended), the State Highway Transportation Improvement Plan or as has been identified in a specific development review and approval process.

(C) Conditional uses permitted. In an M-3 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Any use permitted as an outright use in division (B) of this section that involves outside storage of equipment, materials and products.

(b) Any use permitted in division (B) of this zone as an outright use that requires a contaminant discharge permit from the State Department of Environmental Quality.

(c) Any use permitted in division (B) of this zone as an outright use where buildings are proposed to occupy more than 50% of the total lot or parcel area.

(d) Any use permitted in division (B) of this section that is located within an Airport Approach (AA) or other Airport Protection Zone such as the RPZ, BRL, OFA and RSA areas as identified by the Airport Master Plan as may be amended.

(e) Wood products manufacturing or remanufacturing, provided all manufacturing is within an enclosed building, including cabinet shops, but not including the primary processing of raw materials.

(f) Repair, rental, sales, servicing and storage of machinery, implements, equipment, recreation vehicles, delivery and service vehicles and mobile or modular homes, and the manufacturing and/or assembling of all items listed herein, including enclosed sight-obscuring fenced outside storage of equipment and materials.

(g) Automobile and truck sales and service, including service stations and truck stops with cafes, convenience stores, carwashes and other directly related types of uses.

(h) Machinery or heavy equipment sales, service, repair, rental and storage, provided all repair and service work on-site is within a building, and including open/outside display of equipment for sale, but requiring all equipment for repair and materials therefor be enclosed.

(i) Farm, feed and/or garden supply business including enclosed storage with open display of equipment and goods, but excluding on-site processing not totally enclosed within a building.

(j) Governmental structure or land use not specifically permitted in division (B) of this section.

(k) Telephone, radio and television facilities and electrical and other public or private utility facilities, but not including towers.

(l) Utility substations.

(2) Type II conditional uses.

(a) Any use proposing open/outside storage and/or display of equipment and materials that is permitted in division (C)(1) of this section as a type I conditional use, not including or excluding open/outside storage of equipment and/or materials.

(b) Concrete or ready-mix plants, not including the quarrying, mining and processing of raw materials on site.

(c) Agricultural products storage and processing plants, including agricultural fertilizer and chemical operations, and not permitted as an outright use in division (B) of this section.

(d) Petroleum, synthetic or other fuel producing and/or packaging plant and by-products thereof, including storage and distribution.

(e) Commercial utility facilities or other facilities for the purpose of generating power for sale.

(f) Solid waste transfer station and/or recycling facility.

(g) Any other retail trade, business or industrial uses found similar to or compatible with the existing uses in the M-3 Zone that has not been declared

a nuisance by the city, the county or a court of competent jurisdiction, provided the use is not expected to create a nuisance because of odor, noise, dust, smoke, gas, traffic or other factors, is found to be in compliance with applicable nuisance and pollution regulations, and is not specifically permitted in another zone.

(D) Accessory uses. In addition to those accessory uses that are common to a permitted use, the following additional uses shall be allowed in an M-3 Zone as accessory uses to the primary use.

(1) Temporary buildings for uses incidental to construction work which will be removed upon completion or abandonment of the construction work.

(2) Street furniture and bus or other common carrier shelters.

(3) Solar collection apparatus meeting all the dimensional and development standards of this zone.

(4) Satellite dishes, provided the use is buffered from periphery and internal circulation roads.

(5) Cafeterias, employee lounges and dining rooms.

(6) Employee day care facilities, conference rooms for tenant uses, newsstands, central mail room and self-service postal and banking facilities and product information and display areas.

(7) Indoor and outdoor recreational facilities for employees, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, tennis and other courts, bicycle, jogging and exercise trails and courses, play fields, pedestrian plazas and courts and similar uses.

(E) Performance design standards. In an M-3 Zone, structures, circulation, parking, loading and landscaping shall be designed to do the following.

(1) Avoid undue disturbance of significant vegetation, slopes, drainage ways and other natural features.

(2) Incorporate and use significant natural features to enhance the quality of the development and preserve the visual character of the site and the area.

(3) Project a positive image as viewed from both inside and outside the site.

(4) Minimize the impact of truck loading and maneuvering, and outside display areas.

(5) Minimize hazards and conflicts with airport operations.

(F) Building types and designs. Building types and designs permitted in the M-3 Zone shall be designed and constructed to comply with the following provisions.

(1) Are designed for the specific site to accomplish the objectives set forth in division (E) (1) through (4) above.

(2) Buildings that provide for natural light penetrations into work areas using windows, skylights, atriums, courtyards and the like are preferred.

(3) Should have distinctive public entrances into the building.

(4) Use color, materials and architectural design to visually reduce the scale and impact of large buildings.

(5) Use high image and durable exterior materials and finishes, such as masonry, architecturally treated tilt-up concrete, glass, wood or stucco or combinations thereof; metal siding materials



are permitted provided that not less than 15% of the exterior surfaces are accented by the use of the foregoing materials in combination therewith.

(6) To the extent possible, screen or mask roof mounted mechanical equipment, except solar collection apparatus, from view.

(7) Buildings shall be oriented so that major service activity areas (for example, loading, delivery, garbage collection and the like) are away from major streets and thoroughfares, especially arterials and collectors.

(G) Outdoor storage/process areas.

(1) Outdoor storage of materials or products is limited and may only be permitted if fully enclosed and screened from an adjoining street, especially an arterial or collector.

(2) No outdoor processes shall be permitted in the operation of the business except for the loading, unloading, delivery and shipping of materials and projects.

(3) Loading, unloading, delivery and/or shipping areas shall be located to the side or rear of buildings relative to adjoining streets or roads unless topography, natural features or other requirements of this section dictate front yard loading bays.

(4) Loading/unloading docks may be required to be recessed, screened or otherwise designed to be buffered from adjacent properties, streets and roads.

(5) Waste and recycle receptacles shall be maintained within enclosed structures in all cases.

(H) Display areas. All display areas shall be located within a building except when the display is common to a permitted use, and shall then be limited to a specific area designated for that purpose and appropriately designed and landscaped; the areas shall be subject to a continuing review and are subject to additional requirements, improvements and/or limitations at any time.

(I) Landscaping.

(a) A minimum of 15% of the developed site shall be landscaped, except for sites located adjacent to an arterial or collector, 25% of the area within 100 feet of the street shall be landscaped and shall, at a minimum, include a minimum five foot landscaped buffer along the street.

(b) Landscaping should consist of a variety of lawn, trees, shrubbery and ground cover, and may include preserved natural vegetation.

(c) Street trees must be provided along street frontages and within off-street parking lots except where significant trees already exist; the trees are required to help delineate entrances, to provide shade and to provide permeable areas for storm water drainage.

(d) In addition to the requirements set forth in this section, a landscaping zone shall be provided and maintained in compliance with the provisions of § 153.087, particularly as related to parking lots, buffering and screening and maintenance.

(e) A bond or other financial guarantee may be required to insure landscape completion.

(J) Operational impact standards. In an M-3 Zone, uses are limited by the following operational impact standards.

(1) No use is permitted in the M-3 Zone which will or is expected to produce noise, fumes, gases or vibrations which exceed the standards of the State Department of Environmental Quality (DEQ).

(2) No use is permitted which is reasonably expected to create a nuisance because of noise, smoke, odor, dust or gas.

(3) For uses requiring pollution or contaminant discharge permits by an agency other than the city, final approval for the use shall not be issued by the city prior to review and approval by the applicable permit reviewing authority(ies)

(4) No use is permitted in the M-3 Zone which will or is expected to generate, release, store or deposit hazardous materials or substances except as specifically approved by the DEQ and/or any other appropriate state and/or federal agency.

(5) No use is permitted in the M-3 Zone if determined to be hazardous to aircraft operations by the FAA or State Aeronautics.

(K) Use limitations. In an M-3 Zone, all permitted uses shall be subject to the following limitations and standards.

(1) No use shall be permitted which has been declared a nuisance by action of the city, the county or by a court of competent jurisdiction.

(2) Materials shall be stored and grounds maintained in a manner as to prevent the attraction of or aid in the propagation of insects or rodents, or in a manner as to not otherwise create a public health hazard or attractive nuisance hazard or a hazard to airport operations.

(3) All parking demand created by any use permitted in this zone shall be accommodated entirely on-premises or off-street on another area or adjoining premises shared by one or more uses permitted in this zone.

(4) No use permitted in this zone shall require the backing of traffic onto a public right-of-way to accommodate ingress and egress to the subject use.

(5) Except as approved otherwise by the city in accordance with applicable access management provisions, there shall not be more than one access for ingress and egress from properties accommodating uses permitted by this section.

(L) Dimensional standards. In an M-3 Zone, the following dimensional standards shall apply.

(1) The minimum lot area shall be determined in accordance with the provisions of this section and this chapter relative to yard and other setback requirements, off-street parking and loading requirements and the additional area as deemed necessary by the city to maintain air, water and land resource quality and to protect adjoining and area land uses.

(2) The minimum building setback between a structure and the right-of-way line of a collector or local street shall be 25 feet and 50 feet to the right-of-way line of an arterial, and the setbacks shall be increased one foot for each foot of structural height above 35 feet, except as otherwise required or approved by the city.

(3) A side or rear yard shall be a minimum of ten feet and shall be increased one-half foot for each foot of structural height above 35 feet, unless otherwise approved by the city.

(4) A 20 feet setback shall be provided between buildings within a site area, and ten feet between any building and an internal circulation road or drive. (Note: An internal circulation road is any public or private roadway which provides direct access

to more than one use, building or parcel within a site area, but not including connecting driveways within or between parking areas.)

(5) A structure located on the corner of two roads shall observe the minimum setback requirement for both roads, provided it also complies with the vision clearance requirements applicable thereto.

(6) No building shall exceed a height of 35 feet except as otherwise approved by the city upon establishing the following findings.

(a) 1. A finding that the serving fire protection agency has sufficient firefighting capability to provide emergency response to a higher structure; and/or

2. The building is provided with an approved automatic fire-extinguishing system throughout as provided for in the Structural Specialty and Fire Life Safety Code edition of the current Uniform Building Code; and

3. Approval by the city Fire Department is evident, including compliance with any conditions set forth thereby.

(b) Building heights shall also be found to be in compliance with any applicable Airport Approach limitations.

(c) With the exception of Airport Approach height limitations, vertical projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations set forth in this section.

(7) All buildings, primary and accessory, on a lot shall not cover more than 50 % of the total lot area.

(8) The total area of all buildings, parking areas, driveways, access roads, loading/unloading areas and other impervious surfaces shall not cover more than 75% of the total lot area.

(M) Signs. In an M-3 Zone, signs are permitted in accordance with the provisions of Ch. 152 as amended or as otherwise set forth in this division (M).

(1) One ground-mounted free-standing sign not exceeding an area of either one square foot for every 100 square feet of lot area or 400 square feet, whichever is less, is permitted.

(2) In lieu of, but not in addition to, one wall-mounted sign not exceeding 15% of the total surface area of the wall to which the sign is affixed or 400 sq. ft., whichever is less, is permitted.

(3) The one main sign permitted by subsections (M)(1) or (2) shall be limited to the identification of the company or enterprise on the property where the sign is located, or to the advertisements of the products handled or produced or services rendered by the enterprise. The sign shall not be located within required yards or within 100 feet of an arterial street unless otherwise approved by the city.

(4) Other signs, not exceeding a cumulative total area of either one square foot for every 200 square feet of total lot area or 200 square feet, whichever is less, are permitted provided the signs are directional signs without advertising. The signs, other than those necessary for the direction of traffic, shall be set back 20 feet from all streets or roads.

(5) In addition to the foregoing permitted signs, within a planned unit development complex on a single lot or parcel with a single access point, separate

ground-mounted building identification signs oriented toward on-site circulation roads are permitted, but shall meet the following requirements.

(a) Be located in front of and within 50 feet of the building being identified.

(b) Each sign shall not exceed 16 square feet in area.

(c) Each sign shall not exceed five feet in height.

(d) Shall use materials and colors which are the same, or substantially the same, as those used on the building identified by the sign except as otherwise approved by the city.

(6) One temporary sign not exceeding 320 square feet identifying the developer, contractor or real estate agency responsible for developing, leasing or selling land or buildings on a lot or parcel, or within a planned complex which shall be removed upon completion of a construction project, or sale or lease of the premises advertised; the signs shall be set back 20 feet from all street or road rights-of-way.

(N) On-site lighting. All on-site lighting shall be designed, located, shielded or deflected, so as not to shine into off-site structures on adjoining properties, impair the vision of the driver of any vehicle or be a hazard to aircraft operations in the area. As the part of any application for a development plan for any use in the M-3 Zone, an on-site lighting plan shall be provided that includes the design, height and location of all on-site exterior lighting.

(O) On-site equipment and utilities. Except as approved otherwise by the city, all on-site utility lines shall be placed underground. All roof-mounted fixtures, utility cabinets or similar equipment installed above ground shall be visually screened from public view from arterial and collector streets.

(P) Off-street parking and loading. In an M-3 Zone, off-street parking and loading facilities shall be provided in accordance with the provisions set forth in § 153.080 et seq., for all new development and all exterior remodeling and/or expansions in excess of 25% of the total square footage of all enclosed structures existing on a lot, parcel or tract under a unit ownership on or before the effective date of this chapter. Provided, however, that any existing parking that is displaced by the remodeling and/or expansion is replaced.

(Q) Site design and review. In an M-3 Zone, the site design, and the review thereof, of any permitted use is subject to the design review provisions set forth in § 153.080 et seq., and shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring residential uses, to minimize intrusion into the character of existing developments and land uses in the immediate area; and to minimize hazards to airport operations.

(R) Additional requirements. As a condition of approval of any use proposed within a M-3 Zone, the city may require the following.

(1) An increase in required setbacks.

(2) Additional off-street parking and loading facilities.

(3) Limitations on signs or lighting, time of operations and points of ingress and egress.

(4) Additional landscaping, screening and other improvements.

(5) Any other conditions considered necessary to achieve compliance with the intent and purposes of this section, this chapter and policies of the Comprehensive Plan.

(Ord. 1063, passed 12-9-98)

**§ 153.057 AIRPORT APPROACH OVERLAY (AA) ZONE.**

In an AA Zone, the following regulations shall apply in addition to those of the underlying primary zone as are applicable.

(A) Purpose.

(1) In order to carry out the provisions of this overlay zone, there are hereby created and established certain zones which include certain lands lying beneath the Airport Imaginary Surfaces as they apply to the City (Prineville) - (Crook) County Airport located in the Prineville Urban Area within Crook County. The zones are shown on the current Airport Layout Plans as prepared by Morrison Maierle/CSSA, Project #2530.001-140-1131, and dated 1995.

(2) Further, this overlay zone is intended to prevent the establishment of airspace obstructions in airport approaches and areas through height restrictions and other land use controls as deemed essential to the future development of the airport, and to protect the health, safety and welfare of the people of the city and county and airport users.

(B) Special definitions. For the purposes of this zone as set forth by this section, and other related airport zones set forth in this chapter, the following definitions shall apply.

**AIRPORT.** The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing and taking off from the strip of land, including but not limited to land used for existing commercial and recreational airport uses and activities as described in O.A.R. 660-013-0100, for example:

(1) **EMERGENCY MEDICAL FLIGHT**

**SERVICES.** Includes activities, aircraft accessory structures and other facilities necessary to support emergency transportation for medical purposes; does not include hospitals, medical offices or labs, or medical equipment sales and similar uses.

(2) **LAW ENFORCEMENT AND**

**FIREFIGHTING ACTIVITIES.** Includes aircraft and ground based activities, facilities and accessory structures necessary to support federal, state or local law enforcement and land management agencies engaged in law enforcement and firefighting activities. Such activities include transport of personnel, aerial observation and transport of equipment, water, fire retardant and supplies.

(3) **SEARCH AND RESCUE OPERATIONS.** Includes aircraft and ground based activities, facilities and accessory structures located at airport sites that promote the orderly and efficient conduct of search and rescue related activities.

(4) **FLIGHT INSTRUCTION AND**

**GROUND TRAINING.** Includes activities, facilities and accessory structures located at airport sites that provide education and training directly related to aeronautical activities; does not include schools for flight attendants, ticket agents or similar personnel.

(5) **AIRCRAFT MAINTENANCE.** Includes activities, facilities and accessory structures provided to maintain, service and repair aircraft and aircraft components, but not including activities, structures and facilities for the manufacturing of

aircraft for sale to the public or the manufacturing of aircraft related products for sale to the public. Does include the construction of aircraft and aircraft components for personal use and the assembly of aircraft and aircraft components is allowed as part of servicing, maintaining or repairing aircraft and aircraft components.

(6) **AIRCRAFT REFUELING.** Includes activities, facilities and accessory structures for dispensing aviation fuel to aircraft.

(7) **AIRCRAFT RENTAL.** Includes activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

(8) **AIRCRAFT SERVICE AND SALES.** Includes activities, facilities and accessory structures for the storage, display, demonstration and sale of aircraft to the public.

(9) **AERONAUTIC SKILLS TRAINING.** Includes activities, facilities and accessory structures used to teach aviation-related skills and subjects, or promote proficiency in the operation of aircraft.

(10) **AERONAUTIC RECREATIONAL AND SPORTING ACTIVITIES.** Includes activities, facilities and accessory structures at airports that support recreational use of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Includes, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport.

(11) **CONSTRUCTION AND MAINTENANCE OF AIRPORT FACILITIES.** Includes activities, facilities and accessory structures necessary for the construction and maintenance of runways, taxiways, parking aprons, hangars, approach facilities, airport operational areas, aeronautical aids, lighting, residence for an airport caretaker or security officer, fixed base operator facilities and other uses necessary and accessory to airport operations. Does not include activities, facilities and structures that support residential, commercial or industrial uses that are not necessary and accessory to airport operations.

(12) **CROP DUSTING ACTIVITIES.** Includes activities, facilities and accessory structures provided for and accessory to crop dusting operations, including, but not limited to, aerial application of chemicals, seed, fertilizer, pesticide, defoliant and other activities and chemicals used in a commercial agricultural, forestry or rangeland management setting.

(13) **AIR PASSENGER AND AIR FREIGHT.** Services and facilities at public use airports.

**AIRPORT APPROACH SAFETY ZONE.** The land that underlies the approach surface, excluding the RPZ.

**AIRPORT HAZARD.** Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

**AIRPORT IMAGINARY SURFACES.** Those imaginary areas in space which are defined by the approach surface, transitional surface, horizontal surface and conical surface and in which any object extending above these imaginary surfaces is an obstruction.

**APPROACH SURFACE.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary

surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of 1,250 feet for utility runway having only visual approaches; 1,500 feet for a runway other than a utility runway having only visual approaches; 2,000 feet for a utility runway having a nonprecision instrument approach; 3,500 feet for a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; 4,000 feet for a nonprecision instrument runway having visibility minimums as low as three-fourths of a statute mile; and 16,000 feet for precision instrument runways. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward to each foot upward (20:1) for all utility and visual runways; 10,000 feet at a slope of 34 feet outward for each foot upward (34:1) for all nonprecision instrument runways other than utility; and for all precision instrument runways extends for a horizontal distance of 10,000 feet at a slope of 50 feet outward for each foot upward (50:1); thence slopes upward 40 feet outward for each foot upward (40:1) an additional distance of 40,000 feet.

**CONICAL SURFACE.** Extends 20 feet outward for each foot upward (20:1) for 4,000 feet beginning at the end of the horizontal surface (5,000 feet from the center of each end of the primary surface of each visual and utility runway or 10,000 feet for all nonprecision instrument runways other than utility at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.

**HORIZONTAL SURFACE.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway and 10,000 feet from the center of each end of the primary surface of all runways and connecting the adjacent arcs by lines tangent to those arcs.

**NOISE SENSITIVE AREAS.** Within 1,500 feet of an airport, or within established noise contour boundaries exceeding 55DNL.

**NONPRECISION INSTRUMENT RUNWAY.** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.

**PLACE OF PUBLIC ASSEMBLY.** Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

**PRECISION INSTRUMENT RUNWAY.** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Land System (MLS), Global Positioning Satellite System (GPS) or a Precision Approach Radar System (PAR). It also means a runway for which a precision approach system is planned and is not indicated by an FAA approved airport layout plan; any other FAA or state planning document, or military service airport planning document.

**PRIMARY SURFACE.** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of the runway. The width of the primary surface is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having nonprecision instrument approaches, 500 feet for other than utility runways

having only visual approaches or nonprecision instrument approaches with visibility minimums greater than three-fourths of a mile and 1,000 feet for nonprecision instrument runways with visibility minimums of three-fourths of a mile or less and for precision instrument runways.

**RUNWAY PROTECTION ZONE (RPZ).** An area off the runway end (formerly the clear zone) used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered above the extended runway centerline. It begins 200 feet beyond the end of the arcs usable for takeoff or landing. The RPZ dimensions are functions of the type of aircraft and operations to be conducted on the runway.

**TRANSITIONAL SURFACE.** Extends seven feet outward for each foot upward (7:1) beginning on each side of the primary surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (horizontal surface).

**UTILITY RUNWAY.** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

**VISUAL RUNWAY.** A runway that is intended solely for the operation of aircraft using visual approach procedures where no instrument approach procedures have been approved or planned or indicated on an FAA or state planning document or military service airport planning document.

(C) Permitted uses within the Runway Protection Zone (RPZ). It is fully the intent of this division (C) that no use involving a structure be permitted within the designation RPZ's, and while it is declared to be desirable to clear all objects from the RPZ's, some uses are permitted, provided they do not attract wildlife, are below the approach surface and do not interfere with navigational aids.

(1) Agricultural operations limited to open livestock grazing not involving a structure.

(2) Golf courses or other open land passive recreation areas not including any structures of public assembly.

(3) Operations involving the alteration, removal, maintenance and other nonstructural activities associated with native vegetative cover.

(4) Uses of a public works, public service or public utility nature, including the maintenance or improvement of such, and including runway, taxiway, street or road construction or maintenance activities and open automobile parking facilities.

(D) Permitted uses within the Runway Building Restriction (BRL), Obstacle Free (OFA) and Runway Safety (RSA) Areas. It is fully the intent of this division (D) that no use involving an above ground structure, nor any use not directly associated with the airport and the future development thereof be permitted within the BRL, OFA or RSA Areas; some use or activities are permitted, however, provided they do not attract wildlife and do not interfere with navigational aids or other airport or runway activities.

(1) Operations involving the alteration, removal, maintenance and other nonstructural activities associated with native vegetative cover.

(2) Uses of a public works, public service or public utility nature, including the maintenance or improvement of such, and including runway, taxiway, street or road construction or maintenance activities.

(3) Other uses and activities specifically identified on the 1995 Airport Layout Plan within the areas as approved by the city, the county, State Aeronautics and



FAA; and as such may be amended and subsequently approved by the city, county, State Aeronautics and FAA.

(E) Uses permitted in the AA Overlay Zone areas outside of the RPZ, BRL, OFA and RSA Areas. With the exception of the RPZ, BRL, OFA and RSA Areas, the following uses and their accessory uses are permitted in areas to which the AA Zone is applicable; that is, as the same may be permitted by the primary underlying zone.

(1) Commercial, industrial and other uses when authorized in accordance with the provisions at the primary underlying zone, provided the use does not result in the following.

(a) Electrical interference with navigational signals or radio communication between the airport and aircraft.

(b) Make it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.

(c) Impairs visibility.

(d) Creates or is expected to increase bird strike hazards.

(e) Endangers or interferes with the landing, taking off or maneuvering of aircraft intending to use the airport.

(2) A structure or building accessory to a permitted use.

(3) Single family dwellings, including manufactured homes, duplexes and multi family dwellings, when authorized in the primary underlying zone, provided the landowner signs and records in the deed and mortgage records of Crook County a hold harmless agreement and avigation and hazard easement as provided by the city or county, and submits a copy thereof to the airport managing authority and the respective Planning Department.

(4) Building and uses of public works, public service or public utility nature, including the maintenance, reconstruction, improvement and/or construction of streets, roads, runways and taxiways.

(5) Automobile and other motor vehicular parking facilities.

(6) Other uses and activities permitted by the primary underlying zone.

(7) Other uses and activities specifically identified on the 1995 Airport

Layout Plan as approved by the city, the county, State Aeronautics and FAA; and as such may be amended and subsequently approved by the city, county, State Aeronautics and FAA.

(F) Site design review. In addition to those provisions set forth by the primary underlying zone, in an AA Zone, the review of a site design is subject to the design review provisions set forth in § 153.080 et seq. and the site design of any permitted use shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring uses, to minimize intrusion into the character of existing developments and land uses in the immediate vicinity of the proposed use and to protect the future use and development of the airport.

(G) Procedures. In addition to those requirements that may be set forth by the primary underlying zone, an applicant seeking a permit for a use subject to the provisions of this zone shall follow procedures that may be set forth in the urban growth management agreement between the city and the county. In addition to that information

that may be required for a permit application pursuant to the provisions of the primary underlying zone, information accompanying an application for a permit within the AA Zone shall also include the following.

(1) Property boundary lines as they relate to Airport Imaginary Surfaces or to the boundary lines of the RPZ, BRL, OFA and/or RSA Areas.

(2) Location and height of all existing and proposed buildings, structures, utility lines and roads.

(3) In accordance with O.A.R. Ch. 738, Division 100, the reviewing planning authority shall notify the airport managing authority and State Aeronautics of land use permits or zone changes within 5,000 feet of a visual and 10,000 feet of a instrument airport in such a manner as to provide the parties an opportunity to review and comment.

(H) Use limitations. In addition to those limitations that may be set forth in the primary underlying zone, the following limitations and standards shall apply to all permitted uses in an AA Zone.

(1) To meet the standards established in FAA Regulations, Part 77 and O.A.R. Ch. 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined in division (B) of this section.

(2) No place of public assembly shall be permitted in the Airport Approach Safety Zone or RPZ.

(3) No structure or building shall be allowed within the RPZ.

(4) Whenever there is a conflict on height limitations prescribed by this overlay zone and the primary underlying zone, the lowest height limitation fixed shall govern; provided however, that the height limitations here imposed shall not apply to the structures customarily employed for aeronautical purposes.

(5) No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.

(6) No development shall be permitted that attracts or sustains hazardous bird movements from feeding, watering or roosting across the runways and/or approach and departure patterns of aircraft.

(7) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land use or division permit, deed and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL.

(8) No use shall be permitted which has been declared a nuisance or a hazard to airport operations by statute or action of the city, the county, State Aeronautics, FAA or by a court of competent jurisdiction.

(I) Design and use criteria. In the consideration of an application for a proposed use in an AA Zone, the reviewing authority shall take into account the impact

of the proposed use on the airport and on nearby commercial and industrial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services and on the appearance of the proposal. In approving a proposed use, the reviewing authority shall find the following.

- (1) The proposal is in compliance with the Comprehensive Plan, and more specifically with the Airport Layout Plan.
- (2) The proposal is in compliance with the intent and provisions of this chapter and more particularly with this section.
- (3) That any identifiable social, economical, physical or environmental impacts are minimized or effectively mitigated.
- (4) The proposal is in compliance with applicable State Aeronautics and FAA regulations.

(J) Additional requirements. As a condition of approval of any use proposed within an AA Zone, the reviewing authority may require the following.

- (1) Increases in required setbacks and/or reduced height limitations.
- (2) The use of special noise insulation, glare resistant exteriors and other special construction requirements.
- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.
- (4) Additional landscaping, screening and other improvements.
- (5) Any other conditions considered

necessary to protect the future use and development of the airport.

(Ord. 1057, passed 3-24-98)

#### **§ 153.058 AIRPORT OPERATIONS A-O ZONE.**

In an A-O Zone, the following regulations shall apply.

(A) Purpose. The purpose of this zone is to protect airport facilities from incompatible uses; to provide for future airport development and expansion; and to minimize hazards to airport use and operations.

(B) Special definitions. For the purposes of this zone as set forth by this section, the following definition shall apply.

##### **AIRPORT DEPENDENT USE OR ACTIVITY.**

A use or activity directly servicing the airport, employees working on the airport property or air service patrons. Direct service businesses and uses include such uses as aircraft fueling stations, aircraft repair facilities, hangars, air charter services, taxiways, heliports and other similar uses.

(c) Uses permitted outright. In an A-O Zone, the following uses and their accessory uses are permitted outright subject to the site design review provisions set forth in § 153.080 et seq.

- (1) Airport and appurtenances thereof.
- (2) Uses and facilities on the airport property essential for the operation of the airport, including aircraft hangers, fuel storage facilities, control tower, passenger and air freight terminals, aircraft runways, taxiways and tie-down areas, F.B.O. offices, airport terminals and other similar airport operational uses.
- (3) Public and semi-public buildings, structures and uses essential to the safety and welfare of the area, such as fire stations, emergency medical stations, heliports, pump stations and the like.

(4) Operations involving the alteration, removal, maintenance and other nonstructural activities associated with vegetative control to minimize airport use hazards.

(5) Uses of a public works, public service or public utility nature, including the maintenance or improvement of such, and including runway, taxiway, street or road construction or maintenance activities.

(D) Conditional uses permitted. In an A-O Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Aircraft sales, repair, service, storage and schools related to aircraft operations.

(b) Aircraft or air transportation business.

(2) Type II conditional uses.

(a) Air cargo, taxi, bus and air passenger terminals.

(b) Air cargo warehousing and distribution facilities.

(c) Aerial mapping and surveying business.

(d) Aircraft or aircraft component manufacturing or assembly, including aircraft-related research and testing.

(e) Other uses or activities found to be airport-dependent or related as defined in division (B) of this section, provided the use is in compliance with the airport layout and improvement plans as either or both may be amended, and does not result in the following.

1. Electrical interference with navigational signals or radio communication between the airport and aircraft.

2. Make it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.

3. Impairs visibility.

4. Creates or is expected to increase bird strike hazards.

5. Endangers or interferes with the landing, taking off or maneuvering of aircraft intending to use the airport.

(E) Site design review. In addition to those provisions set forth by this section, the review of a site design for a use in this zone is also subject to the provisions of § 153.057 and the design review provisions set forth in § 153.098. The site design of any permitted use shall take in account the use of the site topography, existing landscaping and placements as to preserve existing natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring uses, to minimize intrusion into the character of existing developments and land uses in the immediate vicinity of the proposed use and to protect the future use and development of the airport.

(F) Procedures. In addition to those requirements that may be otherwise set forth by this chapter, particularly those provisions of the AA Zone that may be applicable, an applicant seeking a permit for a use subject to the provisions of this zone shall follow procedures that may be set forth in the urban growth management agreement

between the city and the county. In addition to that information that may be otherwise required for a permit application pursuant to the provisions of this chapter, information accompanying an application for a permit within the A-O Zone shall include the following.

(1) Property boundary lines as they relate to Airport Imaginary Surfaces or to the boundary lines of the RPZ, BRL, OFA and/or RSA Areas, and to the airport layout plan as may be amended.

(2) Location and height of all existing and proposed buildings, structures, utility lines and roads.

(3) In accordance with O.A.R. Ch. 738, Division 100, the reviewing planning authority shall notify the airport managing authority and State Aeronautics of land use permits or zone changes within 5,000 feet of a visual and 10,000 feet of a instrument airport in a manner as to provide the parties an opportunity to review and comment.

(G) Use limitations. In addition to those limitations that may be set forth in an airport overlay zone (the AA Zone), the following limitations and standards shall apply to all permitted uses in an A-O Zone.

(1) To meet the standards established in FAA Regulations, Part 77 and O.A.R. Ch. 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined in § 153.057(B).

(2) No place of public assembly shall be permitted in the Airport Approach Safety Zone or RPZ.

(3) No structure or building shall be allowed within the RPZ.

(4) Whenever there is a conflict on height limitations prescribed by this zone and any airport overlay zone, the lowest height limitation fixed shall govern.

(5) No glare producing materials shall be used on the exterior of any structure located within the A-O Zone.

(6) No development shall be permitted that attracts or sustains hazardous bird movements from feeding, watering or roosting across the runways and/or approach and departure patterns of aircraft.

(7) The areas within this zone are located in noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above) where noise levels are a concern relative to the proposed use, a declaration of anticipated noise levels shall be attached to any building permit, land use or division permit, deed, and mortgage records. In further protection of the primary intended airport and airport uses in this zone, no permit shall be approved for a noise sensitive land use (for example, real property normally used for sleeping or normally used as residences, schools, churches, hospitals or other similar uses of public assembly).

(8) No use shall be permitted which has been declared a nuisance or a hazard to airport operations by statute or action of the city, the county, State Aeronautics, FAA or by a court of competent jurisdiction.

(H) Dimensional standards. In an A-O Zone, the following dimensional standards shall apply, except that the dimensional standards may be waived in the case of uses established on lands for which the interest acquired therein is on a lease basis only for the land area upon which a permitted use is established.

(1) As may be applicable, the minimum lot size shall be determined on the basis of compliance with required setbacks, off-street parking and loading requirements and other applicable dimensional standards.

(2) The front yard setback from a building to the property line shall be 20 feet.

(3) The minimum building setback from a street right-of-way line, existing or planned, shall be 20 feet unless a greater setback is required for compliance with the Comprehensive Plan criteria or policies, the Transportation System Plan or the Airport Layout Plan.

(4) The minimum building setbacks from a runway or taxiway shall be in compliance with the established or identifiable recommended OFA's relevant to the applicable runway or taxiway.

(5) For a side or rear yard not abutting a street, a building may be constructed to the property line if in compliance with fire protection requirements, vision clearance requirements and any requirements for sidewalks or other pedestrian facilities; however, in no case shall a structure be less than six feet from a structure on an adjoining lot unless the buildings are attached with required separating fire walls.

(6) The maximum building height for any structure permitted in conjunction with a use permitted by this section shall be 35 feet, unless a lesser height is required for compliance with standards set forth by the AA Overlay Zone, or as otherwise approved by the reviewing authority.

(I) Signs. In an A-O Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended, except that no sign shall be permitted which is determined to be hazardous to airport and aircraft operations.

(J) Off-street parking. In an A-O Zone, off-street parking and loading shall be provided in accordance with the provisions of this section and § 153.080 et seq.

(1) All employee parking demand created by any use permitted under the provisions of this section shall be provided entirely off-street or out of OFA's except as approved otherwise by the reviewing authority. Employee parking demand shall be subject to the standards set forth in § 153.080 et seq.

(2) All parking demand created by a use permitted in this zone shall be accommodated on the subject premises except as otherwise approved by the reviewing authority.

(3) No use permitted in this zone shall require the backing of traffic onto a public street right-of-way or taxiway, or into an OFA of a runway or taxiway to accommodate ingress or egress to any use or the premises thereof except as otherwise approved by the reviewing authority.

(K) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development in the A-O Zone with the intent being to generally improve the overall environmental appearance of the airport and immediate vicinity, however no landscaping shall be permitted which is determined to be hazardous to airport or aircraft operations.

(L) Design and use criteria. In the consideration of an application for a proposed use in an A-O Zone, the reviewing authority shall take into account the impact of the proposed use on the airport and on the future use and development thereof, on resource carrying capacities on the capacity of transportation and other public facilities

and services, and on the appearance of the proposal. In approving a proposed use, the reviewing authority shall find the following.

- (1) The proposal is in compliance with the Comprehensive Plan, and more specifically with the Airport Layout Plan.
- (2) The proposal is in compliance with the intent and provisions of this chapter and more particularly with this section.
- (3) That identifiable social, economical, physical or environmental impacts are minimized or effectively mitigated.
- (4) The proposal is in compliance with applicable State Aeronautics and FAA regulations.

(M) Additional requirements. As a condition of approval of any use proposed within this zone, the authority may require the following.

- (1) Increases in required setbacks and/or reduced height limitations.
- (2) The use of special noise insulation, glare resistant exteriors and other special construction requirements.
- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.
- (4) Additional landscaping, screening and other improvements.
- (5) Any other conditions considered necessary to protect the existing and future use and development of the airport.

(Ord. 1057, passed 3-24-98)

**§ 153.059 AIRPORT DEVELOPMENT A-D ZONE.**

In an A-D Zone, the following regulations shall apply.

(A) Purpose. The purpose of this zone to protect airport facilities from incompatible uses; to provide for future airport development and expansion; and to minimize hazards to airport use and operations.

(B) Special definitions. For the purposes of this zone as set forth by this section, the following definitions shall apply.

**AIRPORT DEPENDENT USE OR ACTIVITY.**

A use or activity directly servicing the airport, employees working on the airport property or air service patrons. Direct service businesses include such uses as aircraft fueling stations, aircraft repair facilities, hangars, air charter services and the like. Employee or patron service businesses include such uses as restaurants, motels and hotels, travel agencies, gift shops, car rental agencies and the like.

**AIRPORT RELATED USE OR ACTIVITY.** A use that is determined to be a use requiring a location at or adjacent to an airport to be economically viable. Economic viability can be measured by finding that the use would suffer an identifiable and measurable economic disadvantage if not so located. Measurements may include consideration of the following: percentage of business done with aircraft or air-cargo; and dependence of staff, management, sales personnel, vendors or clientele on air transportation.

(C) Uses permitted outright. In an A-D Zone, the following uses and their accessory uses are permitted outright subject to the site design review provisions set forth in § 153.080 et seq.

- (1) Airport.

(2) Uses and facilities on the airport property essential for the operation of the airport, including aircraft hangers, fuel storage facilities, control tower, passenger and air freight terminals, aircraft runways, taxiways and tie-down areas, offices, airport terminals and other similar airport operational uses.

(3) Public and semi-public buildings, structures and uses essential to the safety and welfare of the area, such as fire stations and dispatch centers, emergency medical stations, heliports, law enforcement office, pump stations, water storage, caretaker-manager's residence and the like.

(4) Operations involving the alteration, removal, maintenance and other nonstructural activities associated with vegetative control to minimize airport use hazards.

(5) Uses of a public works, public service or public utility nature, including the maintenance or improvement of such, and including runway, taxiway, street or road construction or maintenance activities.

(6) Other uses, facilities and activities specifically set forth on the airport layout plan and in the airport improvement plan as either or both may be amended.

(D) Conditional uses permitted. In an A-D Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Retail sales and commercial services for air passengers or activities directly associated with airport operations.

(b) Snack shops, cafes, restaurants or other food service facilities for airport clientele with a total floor area of not more than 1,000 square feet and excluding those serving alcoholic beverages.

(c) Aviation clubs and organizations.

(d) Aircraft sales, repair, service, storage and schools related to aircraft operations.

(e) Air cargo, taxi, bus and air passenger terminals.

(f) Air cargo warehousing and distribution facilities not exceeding 5,000 square feet of building area.

(g) Aerial mapping and surveying business.

(h) Aircraft or aircraft component manufacturing or assembly, including aircraft related research and testing.

(i) Aircraft or air transportation business.

(j) Auto rental agencies and other traveler service and convenience facilities, including travel agencies.

(k) Automobile and other motor vehicular parking facilities.

(2) Type II conditional uses.

(a) Café, restaurant or other food service facilities with a total floor area exceeding 1,000 square feet and/or including those serving alcoholic beverages.

(b) Air cargo warehousing and distribution facilities exceeding 5,000 square feet of building area.



(c) Hotel, motel or other travelers' accommodations.  
(d) Truck or other freight terminals.  
(e) Other uses or activities found to be airport-dependent or related as defined in division (B) of this section, provided the use does not result in the following.

1. Electrical interference with navigational signals or radio communication between the airport and aircraft.

2. Make it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.

3. Impairs visibility.

4. Creates or is expected to increase bird strike hazards.

5. Endangers or interferes with the landing, taking off or maneuvering of aircraft intending to use the airport.

(E) Site design review. In addition to those provisions set forth by this section, the review of a site design for a use in this zone is also subject to the provisions of the § 153.057 AA Zone and the design review provisions set forth in § 153.080 et seq. The site design of any permitted use shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring uses, to minimize intrusion into the character of existing developments and land uses in the immediate vicinity of the proposed use and to protect the future use and development of the airport.

(F) Procedures. In addition to those requirements that may be otherwise set forth by this chapter, particularly those provisions of the AA Zone that may be applicable, an applicant seeking a permit for a use subject to the provisions of this zone shall follow procedures that may be set forth in the urban growth management agreement between the city and the county. In addition to that information that may otherwise be required for a permit application pursuant to the provisions of this chapter, information accompanying an application for a permit within the A-D Zone shall include the following.

(1) Property boundary lines as they relate to Airport Imaginary Surfaces or to the boundary lines of the RPZ, BRL, OFA and/or RSA Areas, and to the Airport Layout Plan as may be amended.

(2) Location and height of all existing and proposed buildings, structures, utility lines and roads.

(3) In accordance with O.A.R. Ch. 738, Division 100, the reviewing planning authority shall notify the airport managing authority and State Aeronautics of land use permits or zone changes within 5,000 feet of a visual and 10,000 feet of a instrument airport in a manner as to provide the parties an opportunity to review and comment.

(G) Use limitations. In addition to those limitations that may be set forth in an airport overlay zone (that is, the AA Zone), the following limitations and standards shall apply to all permitted uses in an A-D Zone.

(1) To meet the standards established in FAA Regulations, Part 77 and O.A.R. Ch. 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined in § 153.057(B).

(2) No place of public assembly shall be permitted in the Airport Approach Safety Zone or RPZ.

(3) No structure or building shall be allowed within the RPZ.

(4) Whenever there is a conflict on height limitations prescribed by this zone and any airport overlay zone, the lowest height limitation fixed shall govern.

(5) No glare producing materials shall be used on the exterior of any structure located within the A-D Zone.

(6) No development shall be permitted that attracts or sustains hazardous bird movements from feeding, watering or roosting across the runways and/or approach and departure patterns of aircraft.

(7) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, use or division permit, deed and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55DNL.

(8) No use shall be permitted which has been declared a nuisance or a hazard to airport operations by statute or action of the city, the county, State Aeronautics, FAA or by a court of competent jurisdiction.

(9) Except as approved otherwise by the reviewing authority, all business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building, except for drive-in windows; however, the outside display of merchandise may be permitted if confined to an area or facility designed for such purpose and approved as a part of the original use permit by the reviewing authority.

(H) Dimensional standards. In an A-D Zone, the following dimensional standards shall apply.

(1) The minimum lot size shall be determined on the basis of compliance with required setbacks, lot coverage limitations, off-street parking and loading requirements and other applicable dimensional standards.

(2) The main and accessory buildings located on any lot shall not cover in excess of 50% of the total lot area.

(3) The total area of all buildings, parking areas and accesses (that is, impervious surfaces) shall not cover in excess of 75% of the total lot area.

(4) The front yard setback from a building to the property line shall be 20 feet.

(5) The minimum building setback from a street right-of-way line, existing or planned, shall be 20 feet unless a greater setback is required for compliance with the Comprehensive Plan criteria or policies, the Transportation System Plan or the Airport Layout Plan.

(6) For a side or rear yard not abutting a street, a building may be constructed to the property line if in compliance with fire protection requirements, vision clearance requirements, and any replacements for sidewalks or other pedestrian facilities; however, in no case shall a structure be less than six feet from a structure on an adjoining lot unless the buildings are attached with required separating fire walls.

(7) The maximum building height for any structure permitted in conjunction with a use permitted by this section shall be 35 feet, unless a lesser height is required for compliance with the standards set forth by the AA Overlay Zone, or as otherwise approved by the reviewing authority.

(I) Signs. In an A-D Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(J) Off-street parking. In and A-D Zone, off-street parking and loading shall be provided in accordance with the provisions of this section and § 153.080 et seq.

(1) All employee parking demand created by any use permitted under the provisions of this section shall be provided entirely off-street except as approved otherwise by the reviewing authority. Employee parking demand shall be subject to the standards set forth in § 153.080 et seq.

(2) All parking demand created by a use permitted in this zone shall be accommodated on the subject premises except as otherwise approved by the reviewing authority.

(3) No use permitted in this zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress or egress to any use or the premises thereof except as otherwise approved by the reviewing authority.

(K) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development in the A-D Zone.

(L) Design and use criteria. In the consideration of an application for a proposed use in an A-D zone, the reviewing authority shall take into account the impact of the proposed use on the airport and on nearby commercial and industrial uses on resource carrying capacities, on the capacity of transportation and other public facilities and services and on the appearance of the proposal. In approving a proposed use, the reviewing authority shall find the following.

(1) The proposal is in compliance with the Comprehensive Plan, and more specifically with the Airport Layout Plan.

(2) The proposal is in compliance with the intent and provisions of this chapter and more particularly with this section.

(3) That any identifiable social, economical, physical or environmental impacts are minimized or effectively mitigated.

(4) The proposal is in compliance with applicable State Aeronautics and FAA regulations.

(M) Additional requirements. As a condition of approval of any use proposed within this zone, the reviewing authority may require the following.

(1) Increases in required setbacks and/or reduced height limitations.

(2) The use of special noise insulation, glare resistant exteriors and other special construction requirements.

- (3) Limitations on signs or lighting, time of operations and points of ingress and egress.
  - (4) Additional landscaping, screening and other improvements.
  - (5) Any other conditions considered necessary to protect the future use and development of the airport.
- (Ord. 1057, passed 3-24-98)

**§ 153.060 AIRPORT COMMERCIAL A-C ZONE.**

In an A-C Zone, the following regulations shall apply.

- (A) Uses permitted outright. In an A-C Zone, the following uses and their accessory uses are permitted outright subject to the site design review requirements set forth in § 153.080 et seq. and the applicable provisions of the AA Overlay Zone as set forth in § 153.057.
- (1) Retail and wholesale business establishments totally enclosed within a building not exceeding 10,000 square feet.
  - (2) Service commercial uses totally enclosed within a building not exceeding 5,000 square feet.
  - (3) Contractors or other building or construction trade services and materials businesses totally enclosed within a building not exceeding 5,000 square feet.
  - (4) Welding, sheet metal, machine shop or other metal fabrication facility totally enclosed within a building not exceeding 5,000 square feet.
  - (5) Cabinet, carpentry, woodworking and other wood products remanufacturing totally enclosed within a building not exceeding 5,000 square feet.
  - (6) Drug store, pharmacy and other medical supply businesses not exceeding 5,000 square feet of retail floor space.
  - (7) Ice, cold storage or bottling plant totally enclosed within a building not exceeding 5,000 square feet.
  - (8) Wholesale distribution outlet, including warehousing, totally enclosed within a building not exceeding 5,000 square feet.
  - (9) Specialty stores, gift shops and similar retail sales totally enclosed within a building not exceeding 2,500 square feet, including sporting goods and other tourist or recreation-oriented retail sales and services.
  - (10) Business, professional or personal services office buildings, including engineers, real estate sales, attorneys, accountants, insurance, doctors, dentists, mail services, photograph, title companies, health and fitness centers, barber shop or beauty salon, travel agencies and the like.
  - (11) Financial institution or other service facility, including banks, mortgage companies, credit unions and the like including drive-in window services.
  - (12) Feed and farm supplies, including enclosed, outside storage and display, but excluding heavy equipment sales and service, farm product processing and plant nurseries.
  - (13) Veterinary clinic and kennel, totally enclosed within a building.
  - (14) Public or private transportation stations, depots, terminals and auto and truck rental agencies.
  - (15) Day nursery and other child care facilities primarily intended and designed to serve the employees of the overall airport development area.

(16) Automobile service station, including auto repair, carwash and convenience store, totally enclosed and not exceeding an area of 10,000 sq. ft.

(17) Hotel, motel or similar travelers' accommodations with a lodging unit capacity not exceeding 25.

(18) Eating and drinking establishment, including drive-in restaurants, but excluding those serving alcoholic beverages.

(19) Public and semi-public buildings, structures and uses essential to the safety and welfare of the area, such as fire stations and dispatch centers, emergency medical stations, law enforcement office, pump stations, water storage, caretaker-manager's residence and the like.

(20) Uses of a public works, public service or public utility improvement of such nature, including water system, sewer system, street or road construction or maintenance activities.

(21) Other uses, facilities and activities specifically set forth on the Airport Layout Plan and in the Airport Improvement Plan as either or both may be amended and subsequently approved by the city, the county, State Aeronautics and FAA.

(B) Conditional uses permitted. In an A-C Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section, § 153.135 et seq. and the applicable provisions of § 153.057 AA Overlay Zone.

(1) Type I conditional uses.

(a) A use permitted by division (A)(1) of this section that exceeds a building area of 10,000 square feet but not more than 20,000 square feet.

(b) A use permitted by divisions (A)(2) through (8) of this section that exceeds a building area of 5,000 square feet, but not more than 10,000 square feet.

(c) A use permitted by division (A)(9) of this section that exceeds 2,500 square feet but not more than 5,000 square feet.

(d) A use permitted by division (A)(12) of this section that includes heavy equipment sales and service, with outside equipment display but all services enclosed within a building.

(e) Any combination of uses permitted by division (A) of this section provided the total building coverage does not exceed 20,000 square feet.

(f) Heavy equipment sales and service provided all repair services are totally enclosed within a building and the total area required for the use does not exceed more than 10,000 square feet of lot area.

(g) Automobile, truck, boat, recreation vehicle, motorcycle, ATV, snowmobile or other motor vehicle sales and service, provided all service activities are totally enclosed within a building and the total area required for the use does not exceed 10,000 square feet.

(h) Eating and drinking establishments proposing to serve alcoholic beverages, but only with meals in areas designed and intended primarily as dining areas.

(i) Manufacture, assembly, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or electronic supplies and equipment, computers or components thereof,

business machines, furniture, signs and similar products, totally enclosed within a building not exceeding 10,000 square feet.

(j) Repair, rental, sales, servicing and storage of machinery, implements, equipment, recreation vehicles, manufactured or modular homes and the manufacturing and/or assembly thereof totally enclosed within a building not exceeding 10,000 square feet, but permitting enclosed/outside storage of finished products with a total land area requirement not exceeding 20,000 square feet.

(k) Residence, including a manufactured or modular home, for a caretaker or night watchman on property with an existing use authorized by this section or for the owner/operator of the use.

(l) Automotive body and paint business totally enclosed within a building.

(2) Type II conditional uses.

(a) Any use permitted by divisions (A) and (B)(1) of this section that exceeds the building, square footage and/or land area limitations stated thereby.

(b) Any use permitted by divisions (A) and (B)(1) of this section that is not totally enclosed within a building except where otherwise stated in the case of certain uses with allowable outside storage and/or display of equipment and the like.

(c) Any combination of uses permitted by divisions (A) and (B)(1) of this section that exceeds a total building area of 20,000 square feet.

(d) Hotel, motel or similar travelers' accommodations with a lodging unit capacity exceeding 25.

(e) Eating and drinking establishment proposing to serve alcoholic beverages without meals in an area within the facility designed and intended as a lounge or similar use area.

(f) Truck or other freight terminals.

(g) Other uses or activities found to be airport-dependent or related as defined in § 153.059(B), provided the use does not result in the following.

1. Electrical interference with navigational signals or radio communication between the airport and aircraft.

2. Make it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.

3. Impairs visibility.

4. Creates or is expected to increase bird strike hazards.

5. Endangers or interferes with the landing, taking off or maneuvering of aircraft intending to use the airport.

(C) Site design review. In addition to those provisions set forth by this section, the review of a site design for a use in this zone is also subject to the provisions of the § 153.057 AA Zone and the design review provisions set forth in § 153.080 et seq. The site design of any permitted use shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing natural features, preserve vistas and other views from public ways, minimize visibility of parking, loading and storage areas from public ways and neighboring uses, to minimize

intrusion into the character of existing developments and land uses in the immediate vicinity of the proposed use and to protect the future use and development of the airport and adjacent areas.

(D) Procedures. In addition to those requirements that may be otherwise set forth by this chapter, particularly those provisions of the AA Zone that may be applicable and, in addition to that information that may be otherwise required for a permit application pursuant to the provisions of this chapter, information accompanying an application for a permit within the A-C Zone shall include the following.

(1) Property boundary lines as they relate to Airport Imaginary Surfaces or to the boundary lines of the RPZ, BRL, OFA and/or RSA Areas as applicable, and to the Airport Layout Plan as may be amended.

(2) Location and height of all existing and proposed buildings, structures, utility lines and roads.

(3) In accordance with O.A.R. Ch. 738, Division 100, the planning authority shall notify the airport managing authority and State Aeronautics of land use permits or zone changes within 5,000 feet of a visual and 10,000 feet of an instrument airport in a manner as to provide the parties an opportunity to review and comment.

(E) Use limitations. In addition to those limitations that may be applicable as set forth in an airport overlay zone (that is, the AA Zone), the following limitations and standards shall apply to all permitted uses in an A-C Zone.

(1) To meet the standards established in FAA Regulations, Part 77 and O.A.R. Ch. 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined in of § 153.057(B).

(2) No place of public assembly shall be permitted in the Airport Approach Safety Zone or RPZ.

(3) No structure or building shall be allowed within the RPZ.

(4) Whenever there is a conflict on height limitations prescribed by this zone and any airport overlay zone, the lowest height limitation fixed shall govern.

(5) No glare producing materials shall be used on the exterior of any structure located within the A-C Zone.

(6) No development shall be permitted that attracts or sustains hazardous bird movements from feeding, watering or roosting across the runways and/or approach and departure patterns of aircraft.

(7) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land use or division permit, deed and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL.

(8) No use shall be permitted which has been declared a nuisance or a hazard to airport operations by statute or action of the city, the county, State Aeronautics, FAA or by a court of competent jurisdiction.

(9) Except as approved otherwise by the reviewing authority, all business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building, except for drive-in windows; however, the outside display of merchandise may be permitted if confined to an area or facility designed for such purpose and approved as part of the original use permit by the reviewing authority.

(F) Dimensional standards. In an A-C Zone, the following dimensional standards shall apply.

(1) The minimum lot size shall be determined on the basis of compliance with required setbacks, lot coverage limitations, off-street parking and loading requirements and other applicable dimensional standards.

(2) The main and accessory buildings located on any lot shall not cover in excess of 50% of the total lot area.

(3) The total area of all buildings, parking areas and accesses (that is, impervious surfaces) shall not cover in excess of 75% of the total lot area.

(4) The front yard setback from a building to the property line shall be 20 feet.

(5) The minimum building setback from a street right-of-way line, existing or planned, shall be 20 feet unless a greater setback is required for compliance with the Comprehensive Plan criteria or policies, the Transportation System Plan or the Airport Layout Plan.

(6) For a rear yard not abutting a street, the minimum building setback shall be ten feet unless otherwise approved by the reviewing authority.

(7) The total of side yards shall be 12 feet and the minimum side yard shall be three feet; except on a side yard abutting a street or road right-of-way, the minimum setback shall be ten feet unless otherwise required or approved by the reviewing authority.

(8) The maximum building height for any structure permitted in conjunction with a use permitted by this section shall be 35 feet, unless a lesser height is required for compliance with standards set forth by the AA Overlay Zone, or as otherwise approved by the reviewing authority.

(G) Signs. In an A-C Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended.

(H) Off-street parking. In an A-C Zone, off-street parking and loading shall be provided in accordance with the provisions of this section, and § 153.080 et seq.

(1) All employee parking demand created by any use permitted under the provisions of this section shall be provided entirely off-street except as approved otherwise by the reviewing authority. Employee parking demand shall be to the standards set forth in § 153.080 et seq.

(2) All parking demand created by a use permitted in this zone shall be accommodated on the subject premises except as otherwise approved by the reviewing authority.

(3) No use permitted in this zone shall require the backing of traffic onto a public street right-of-way to accommodate ingress or egress to any use or the premises thereof except as otherwise approved by the reviewing authority.

(I) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new



development in the A-D Zone, and it shall be the intent of this zone to approve development which is as environmentally attractive as possible for employees, patrons and visitors to the area.

(J) Design and use criteria. In the consideration of an application for a proposed use in an A-C Zone, the reviewing authority shall take into account the impact of the proposed use on the airport and on nearby commercial and industrial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services and on the appearance of the proposal. In approving the proposed use, the reviewing authority shall find the following.

(1) The proposal is in compliance with the Comprehensive Plan, and more specifically with the Airport Layout Plan.

(2) The proposal is in compliance with the intent and provisions of this chapter and more particularly with this section.

(3) That any identifiable social, economical, physical or environmental impacts are minimized or effectively mitigated.

(4) The proposal is in compliance with applicable State Aeronautics and FAA regulations.

(K) Additional requirements. As a condition of approval of any use proposed within this zone, the reviewing authority may require the following.

(1) Increases in required setbacks and/or reduced height limitations.

(2) The use of special noise insulation, glare resistant exteriors and other special construction requirements.

(3) Limitations on signs or lighting, time of operations and points of ingress and egress.

(4) Additional landscaping, screening, fencing and other improvements; sight-obscuring fencing shall be considered and may be required along property lines bordering serving arterials or collectors.

(5) Any other conditions considered necessary to protect the future use and development of the airport and the adjoining areas.

(Ord. 1057, passed 3-24-98)

#### **§ 153.061 AIRPORT BUSINESS-INDUSTRIAL A-M ZONE.**

In an A-M Zone, the following regulations shall apply.

(A) Purpose. The A-M Zone is intended to provide for those business and industrial uses that are considered compatible with each other, airport operations, the long range development plans of the airport and the future economic needs of the community. It is further the purpose of this zone to provide areas for those business and industrial activities that are supporting, related to and/or dependent upon aircraft or air transportation when such activities, in order to function, require or desire a location adjacent to, or in close proximity to, the airport with or without immediate aircraft access to a taxiway.

(B) Use criteria. In the determination of the need or desirability for a use to be located within this zone, and in the determination of compatibility with the stated purpose of the A-M Zone, the following use criteria shall be considered.

(1) The use is determined to be a use requiring a location in this zone to be economically viable. Economic viability can be measured by finding that the use would suffer an identifiable and measurable economic disadvantage if not so located.

Measurement may include consideration of the following: percentage of business done with aircraft or air-cargo; and dependence of staff, management, sales personnel, vendors or clientele on air transportation.

(2) An application for a use permitted by this section may be denied if the applicant fails to demonstrate that the proposed location is both essential relative to the business or industrial sector to be served, to the benefit of the general public relative to the full development of the business and industrial resources of the city and the county and to the overall benefit of the economic future of the community.

(3) An application for a use permitted by this section shall be denied if found to not be in compliance with the applicable Comprehensive Plan policies (more specifically with the economic element thereof) and the overall Airport Master Development Plan.

(C) Permitted outright. In an A-M Zone, the following uses and their accessory uses are permitted outright subject to the site design review provisions set forth in § 153.080 et seq. and the applicable provisions of the AA Overlay Zone as set forth by § 153.057.

(1) Airport, aircraft runways, taxiways and other airport operations and accessory uses normally required in conjunction with airport operations.

(2) Aircraft hangars and tie-down areas.

(3) Passenger and air freight terminals, air-charter business or air transportation business.

(4) Retail sales and commercial services for air passengers or direct airport connected activities totally enclosed within a building not exceeding 5,000 square feet.

(5) Aviation club or organization, including buildings for offices, headquarters, exhibitions and normal club or organizational functions and activities, and including enclosed/outside storage/display areas for aircraft.

(6) Air cargo warehousing and distribution facilities.

(7) Aerial mapping and surveying services.

(8) Aircraft or aircraft component manufacturing or assembly.

(9) Aircraft-related research and testing.

(10) Aircraft sales, repair, service and storage, provided all repair and related activities are totally enclosed within a building.

(11) Schools relating to aircraft operations.

(12) Agricultural spraying and fire suppression aircraft activities.

(13) Automobile rental and travel agencies, and public or private transportation stations, depots or terminals.

(14) Business or professional office buildings not exceeding 10,000 square feet and found related or dependent upon location within the zone.

(15) Manufacturing, fabrication and/or assembly of nonhazardous materials totally enclosed within buildings not exceeding 20,000 square feet and found related to or dependent upon location within the zone.

(16) Public and semi-public buildings, structures and uses essential to the safety and welfare of the area, such as fire stations and dispatch centers, emergency medical stations, law enforcement office, pump stations, water storage, caretaker-manager's residence and the like.

(17) Uses of a public works, public service or public utility nature, including the maintenance or improvement of such, and including water system, sewer system, taxiway, street or road construction or maintenance activities.

(18) Private or public parking facilities for automobiles and/or aircraft.

(19) Other uses, facilities and activities specifically set forth on the Airport Layout Plan and in the Airport Improvement Plan as either or both may be amended and subsequently approved by the city, the county, State Aeronautics and FAA.

(D) Conditional uses. In an A-M Zone, the following uses and their accessory uses are permitted when authorized in accordance with the applicable requirements of this section, § 153.135 et seq., and § 153.057 AA Overlay Zone of this chapter.

(1) Type I conditional uses.

(a) Retail sales and commercial services for air passengers or direct airport connected activities totally enclosed within a building exceeding 5,000 square feet but not exceeding 10,000 square feet

(b) Business or professional office buildings not exceeding 20,000 square feet and found related or dependent upon location within the zone.

(c) Manufacturing, fabrication and/or assembly of nonhazardous materials totally enclosed within buildings not exceeding 40,000 square feet and found related to or dependent upon location within the zone.

(d) Ice, cold storage or bottling plant totally enclosed within a building not exceeding 5,000 square feet.

(e) Wholesale distribution outlet, including warehousing, totally enclosed within a building not exceeding 10,000 square feet.

(f) Financial institution or service facility, including banks, mortgage companies, credit unions and the like, and including drive-in window services.

(g) Day nursery and other child care facilities primarily intended and designed to serve the employees of the overall airport development area.

(2) Type II conditional uses.

(a) Any use permitted by divisions (C) and (D)(1) of this section that proposes to exceed the building areas allowable thereby, or proposes to include open or enclosed outside storage of materials and equipment where not allowed by divisions (C) and (D)(1).

(b) Heavy equipment sales and service found related to or dependent upon location within the zone.

(c) Automobile service station, including auto repair, carwash and convenience store.

(d) Eating and drinking establishment, including drive-ins and those serving alcoholic beverages, but limited to a building not exceeding 5,000 square feet

(e) Motel, hotel and other travelers' accommodations, service or convenience facilities.

(f) Government buildings including armories, maintenance, repair or storage facilities provided all outside storage is enclosed.

(g) Research testing or experiment laboratories.

(h) Owner/operator residence only on property with an existing approved commercial or industrial use and only if owned by the business owner/operator.

(i) Other uses or activities found to be airport-dependent or related as defined in § 153.059(B), provided the use does not result in the following.

1. Electrical interference with navigational signals or radio communication between the airport and aircraft.

2. Make it difficult for pilots to distinguish between airport lights and lighting, from nearby land uses.

3. Impairs visibility.

4. Creates or is expected to increase bird strike hazards.

5. Endangers or interferes with the landing, taking off or maneuvering of aircraft intending to use the airport.

(E) Use limitations. In addition to those limitations that may be applicable as set forth in an airport overlay zone (that is, the AA Zone), the following limitations and standards shall apply to all permitted uses in an A-M Zone.

(1) To meet the standards established in FAA Regulations, Part 77 and O.A.R. Ch. 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined in of § 153.057(B), but in no case shall any building or structure exceed 35 feet except as otherwise approved by the Planning Commission.

(2) Whenever there is a conflict on height limitations prescribed by this zone and any applicable overlay or combining zone, the lowest height limitation shall govern.

(3) As may be applicable, no place of public assembly shall be permitted in the Airport Approach Safety Zone or RPZ, and no structure or building shall be allowed within the RPZ.

(4) Except as may otherwise be approved by the city, county, State Aeronautics and FAA, no use shall be approved under the provisions of this section that proposes or would require any overhead power or other utility lines to be located in clear or approach zones, or in the RPZ.

(5) No development shall be permitted that attracts or sustains hazardous bird movements from feeding, watering or roosting across the runways and/or approach and departure patterns of aircraft, nor shall any use be permitted under the provisions of this section if the use will allow or cause ponding which is likely to attract birds, or which otherwise is likely to attract birds which are normally considered high flight.

(6) No use shall be approved under the provisions of this section that does not utilize glare resistant materials in construction and landscaping that will minimize hazards to airport operations.

(7) It is the intent of this section, and the reviewing authority may require, that all structures permitted pursuant hereto be surfaced primary with earth tone colors, although limited surface areas of not more than 15% may be approved with accent colors if such a requirement is set forth.

(8) All structures and uses approved under the provisions of this section shall be maintained in a good and attractive appearance, and such may be set forth as a condition of approval by the reviewing authority.

(9) No on-site lighting shall be permitted which is determined to be hazardous to airport operations.

(10) Any use permitted under the provisions of this section that is determined to be incompatible with an existing or planned use adjacent thereto or across the street from it, shall be screened from the incompatible uses by densely planted trees and shrubs or sight-obscuring fencing.

(11) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land use or division permit, deed and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL.

(12) No use shall be permitted which has been declared a nuisance or a hazard to airport operations by statute or action of the city, the county, State Aeronautics, FAA or by a court of competent jurisdiction.

(13) For any use permitted under this section that requires a contaminant or other environmentally related permit from an agency other than the city or the county, final approval shall not be granted until such time as the approval of the agency is evident, and continuing compliance with the conditions of the permit shall be a condition of approval for the use.

(F) Dimensional standards. In an A-M Zone, the following dimensional standards shall apply.

(1) The minimum lot size shall be determined in accordance with the provisions of this section relative to setback requirements, off-street parking and loading requirements, lot coverage limitations and as deemed necessary by the reviewing authority to maintain air, land and water resource quality, to protect adjoining and area land uses, to insure resource carrying capacities are not exceeded, and more specifically, to protect the airport, the operations and development thereof and the surrounding area.

(2) No use permitted by this section shall exceed a lot coverage of more than 70% of the land area designed or intended for the use, including buildings, storage areas and facilities and required off- street parking and loading areas.

(3) The minimum setback between a structure and the right-of way of an arterial shall be 50 feet. The minimum setback of a structure from the right-of-way of a collector shall be 30 feet, and from the right-of-way of all lower class streets the minimum setback shall be 20 feet.

(4) The minimum building setback from a private drive shall be ten feet unless a greater setback is required to meet vision clearance requirements.

(5) The minimum building setback from an existing or planned taxiway shall be 30 feet unless a greater setback is determined necessary to preserve maximum utilization of the taxiway.

(6) The minimum lot frontage shall not be less than 50 feet, except that on a cul-de-sac, curve or curvilinear street the frontage may be reduced to 35 feet minimum.

(7) The minimum side setback between a structure and a property line shall be three feet or six feet to an existing structure on an adjoining lot, whichever is greater, and the total of both side setbacks shall not be less than 12 feet.

(8) The minimum rear setback between any structure and a rear property line shall be ten feet unless approved otherwise by the reviewing authority.

(9) The front yard setback from a building to the property line shall be 20 feet unless required otherwise by this subsection.

(10) The maximum building height for any structure permitted in conjunction with a use permitted by this section shall be 35 feet, unless a lesser height is required for compliance with standards set forth by the AA Overlay Zone, or as otherwise approved by the reviewing authority.

(G) Sign limitations. In addition to standards set forth by this chapter, by applicable city or county sign codes or by regulations set forth by any other appropriate agency in an A-M Zone, the following sign limitations shall apply.

(1) Except as approved otherwise by the city for any use permitted by this section, the total area of all signs shall not exceed 100 square feet, no free-standing sign shall exceed 32 square feet and a height of 20 feet, no sign exceeding ten square feet of area and four feet in height shall be located upon the roof of any building and the total height thereof shall not exceed 35 feet and no sign shall exceed 15% of the area of the wall it is attached to.

(2) No sign shall be located within or protrude into a street right-of-way, and no sign shall flash or move or be illuminated between the hours of 10:00 p.m. and 7:00 a.m. unless otherwise approved by the city.

(3) On any premises accommodating a use permitted by this section, there shall not be more than one free-standing sign, plus not more than one building sign per business or other enterprise; such does not include onsite directional signs, however, no sign shall exceed four square feet of sign area or exceed four feet in height.

(H) Off-street parking and loading and access requirements and limitations. In an A-M Zone, limitations and requirements for off-street parking, loading and access shall be provided in accordance with the provisions of this subsection and § 153.080 et seq.

(1) Unless approved otherwise by the reviewing authority, all parking demand created by any use permitted by this section shall be accommodated on the subject premises entirely off-street or off the serving taxiway, including parking for employees, patrons, customers, clientele, visitors and the like.

(2) No use permitted by this section shall require the backing of auto vehicular traffic onto a public or private street or road right-of-way, or onto a taxiway to accommodate ingress or egress to any use of the premises thereof.

(3) It is the intent of this section that no use approved pursuant hereto shall access directly onto the serving state highway (that is, an arterial). Ingress and egress for uses permitted under this section shall utilize existing or future lower order roads in the area, and if necessary to meet this requirement, permitted uses shall provide for shared ingress and egress, and/or the construction of marginal access roads.

(I) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all new development in the A-D Zone, and it shall be the intent of this zone to approve development which is as environmentally attractive as possible for employees, patrons and visitors to the area.

(J) Design and use criteria. In the consideration of an application for a proposed use in an A-M Zone, the reviewing authority shall take into account the impact of the proposed use on the airport and on nearby commercial and industrial uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services and on the appearance of the proposal. In approving a proposed use, the reviewing authority shall find the following.

(1) The proposal is in compliance with the Comprehensive Plan, and more specifically with the Airport Layout Plan.

(2) The proposal is in compliance with the intent and provisions of this chapter and more particularly with this section.

(3) That any identifiable social, economical, physical or environmental impacts are minimized or effectively mitigated.

(4) The proposal is in compliance with applicable State Aeronautics and FAA regulations.

(K) Additional requirements. As a condition of approval of any use proposed within this zone, the reviewing authority may require the following.

(1) Increases in required setbacks and/or reduced height limitations.

(2) The use of special noise insulation, glare resistant exteriors and other special construction requirements.

(3) Limitations on signs or lighting, time of operations and points of ingress and egress.

(4) Additional landscaping, screening fencing and other improvements; sight-obscuring fence shall be considered and may be required along property lines bordering serving arterials or collectors.

(5) Any other conditions considered necessary to protect the future use and development of the airport and the adjoining areas.

(Ord. 1057, passed 3-24-98)

#### **§ 153.062 AIR RESIDENTIAL A-R ZONE.**

In an A-R Zone, the following regulations shall apply.

(A) Purpose. The purpose of the A-R Zone is to provide for a compatible combination of residential and aircraft uses that is unique to residential developments existing within close proximity and with taxiway access to an airport. The purpose of this zone therefore is to strictly limit the development to residents who also possess and operate a personal or corporate aircraft, while at the same preserving and protecting the primary aviation use of the nearby airport.

(B) Uses permitted outright. In an A-R Zone, the following uses and their accessory uses are permitted outright subject to compliance with the applicable provisions of the AA Overlay Zone as set forth by § 153.057 and the site design review provisions set forth by § 153.080 et seq.

(1) Single family dwelling, including modular homes and manufactured homes in compliance with the applicable provisions set forth in § 153.080

et seq., and in compliance with the requirements and/or limitations set forth in division (H) of this section.

(2) Utility lines necessary for local public service.

(3) Land partitioning whereby no new access roads or streets are created or necessary to provide access to the parcels.

(4) Maintenance or repair of an existing transportation facility, including the reconstruction, surfacing, minor widening or realignment of an existing road or taxiway within an existing right-of-way, including the addition of turn refuges at existing street intersections, but not including the addition of through travel lanes.

(5) Replacement of bridges and other stream or canal crossing facilities.

(6) Temporary improvements in association with construction projects, such as temporary roads and detours.

(7) Bikeways, footpaths and recreation trails.

(8) Construction of new streets, roads and taxiways, including the extensions of existing streets, roads and taxiways that are included within locally adopted transportation systems plans (as may be amended), the State Highway Transportation Improvement Plan, the Airport Layout Plan or as has been identified in a specific development review and approval process.

(9) Private garages, airplane hangers and accessory buildings commonly associated with permitted residential uses.

(B) Conditional uses permitted. In an A-R Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Public use limited to a public park, playground, other open recreation use or recreation building.

(b) Guest house.

(c) Duplex or two family dwelling unit.

(d) Land partitioning involving the creation of a road or street for access to one or more parcels.

(e) The addition of through travel lanes to an existing street within the existing right-of-way and/or the extension of an existing street or taxiway not previously planned.

(2) Type II conditional uses.

(a) Condominiums or townhouses up to four unit complexes.

(b) Telephone exchanges, radio and television facilities and other public or private utility facilities necessary for public service, including water storage and pumping facilities, provided no open outside storage is permitted.

(c) Publicly or privately operated day nursery or day care center, provided the residential character of the area is maintained.

(d) Subdivision, planned unit development or other land development project of four or more units.



(e) Construction of a new street or taxiway not set forth within a locally adopted transportation system plan, the State Highway Transportation Improvement Plan, Airport Layout Plan or previously approved development plan.

(C) Dimensional standards. In an A-R Zone, the following dimensional standards shall apply.

(1) Minimum lot area shall be 7,500 square feet for a single family dwelling unit, 10,000 feet for a two family (duplex) dwelling unit and an additional 2,500 square feet for each dwelling unit over two.

(2) Minimum average lot width shall be 50 feet.

(3) Front yards shall be a minimum of 20 feet.

(4) The sum of the width of side yards shall be a minimum of 12 feet, and each side yard shall be a minimum of three feet, except than on a corner lot the side yard on the street side shall be a minimum of ten feet.

(5) Rear yards shall be a minimum of ten feet.

(6) Buildings shall not occupy more than 35% of the total net lot area.

(7) No building shall exceed a height of 30 feet or two and one-half stories, whichever is less, and to meet the standards established in FAA Regulations, Part 77 and O.A.R. Ch. 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined in § 153.057(B).

(8) Whenever there is a conflict on height limitations prescribed by this zone and any applicable overlay or combining zone, the lowest height limitation shall govern.

(D) Signs. In an A-R Zone, signs are permitted in accordance with the provisions set forth in Ch. 152 as amended, or as may otherwise be set forth in § 153.080 et seq.

(E) Off-street parking and access. In an A-R Zone, off-street parking facilities and access shall meet the requirements set forth in this section and § 153.080 et seq.

(1) Unless approved otherwise by the reviewing authority, all parking demand created by any use permitted by this section shall be accommodated on the subject premises entirely off- street or off the serving taxiway, including parking for residents, visitors, guests and the like.

(2) No use permitted by this section shall require the backing of auto vehicular traffic onto a public or private street or road right-of-way, or onto a taxiway to accommodate ingress or egress to any use of the premises thereof.

(3) It is the intent of this section that no use approved pursuant hereto shall access directly onto the serving state highway (that is, an arterial). Ingress and egress for uses permitted under this section shall utilize existing or future lower order roads in the area, and if necessary to meet this requirement, permitted uses shall provide for shared ingress and egress and/or the construction of marginal access roads.

(F) Use limitations. In addition to those limitations that may be applicable as set forth in an Airport Overlay Zone (that is, the AA Zone), the following limitations and standards shall apply to all permitted uses in an A-R Zone.

(1) Except as may be approved by the Planning Commission to permit resident owned aircraft to be hangared or tied-down at the airport no residence may be established without an adjoining, on-site or immediately available aircraft hangar or approved tie-down area.

(2) As may be applicable, no structure or building shall be permitted in the Airport Approach Safety Zone or RPZ.

(3) Except as may otherwise be approved by the city, county, State Aeronautics and FAA, no use shall be approved under the provisions of this section that proposes or would require any overhead power or other utility lines to be located in clear or approach zones, or in the RPZ.

(4) No development shall be permitted that attracts or sustains hazardous bird movements from feeding, watering or roosting across the runways and/or approach and departure patterns of aircraft, nor shall any use be permitted under the provisions of this section if such use will allow or cause ponding which is likely to attract birds, or which otherwise is likely to attract birds which are normally considered high flight.

(5) No use shall be approved under the provisions of this section that does not utilize glare resistant materials in construction and landscaping that will minimize hazards to airport operations.

(6) It is the intent of this section, and the reviewing authority may require that all structures permitted pursuant hereto be surfaced primarily with earth tone colors, although limited surface areas of not more than 15% may be approved with accent colors if such a requirement is set forth.

(7) All structures and uses approved under the provisions of this section shall be maintained in a good and attractive appearance and such may be set forth as a condition of approval by the reviewing authority.

(8) No on-site lighting shall be permitted which is determined to be hazardous to airport operations.

(9) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 DNL and above) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land use or division permit, deed and mortgage records in areas where the noise level is anticipated to be 55 DNL and of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or normally used as schools, hospitals or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL.

(G) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all development in the A-R Zone, and it shall be the intent of this zone to require development to be as environmentally attractive as possible for residents and visitors to the area.

(H) Site design review. All uses permitted in this zone are subject to the site design review provisions set forth in § 153.080 et seq., and to the applicable provisions of § 153.057. Special design considerations shall be given and may be required to protect scenic views from State Highway 126 and from the airport, and special design considerations shall be given to requirements that maximize the compatibility with and continuing use and development of the airport.

(I) Sewer and water services required. No use permitted in this zone shall be permitted without municipal sewer and water services, regardless of the lot area, unless otherwise approved by the city.

(J) Nuisances and certain uses prohibited. In an A-R Zone, no structure or land shall be occupied or used for any purpose which creates or causes to be created any public nuisance, including but not limited to excessive odor, dust, noise, vibration or any hazard to the general health, safety and welfare of the area, and more particularly to the airport. Specifically, no livestock shall be permitted to run at large, all animals, including domestic dogs and cats, shall be solely confined to an individual owner's property, and all animals shall be maintained in a manner as to not attract insects, rodents and more particularly birds. Any animals permitted to run at large are hereby declared a nuisance and may be abated as such.

(Ord. 1057, passed 3-24-98)

**§ 153.063 OPEN SPACE-PARK RESERVE P-R ZONE.**

In a P-R Zone, the following regulations shall apply.

(A) Purpose. The purpose of the P-R Zone is to protect and provide natural resources within the city and the surrounding urban area considered important for recreation, open space and quality of living amenities and to limit development in those areas considered environmentally sensitive that have been designated by the Urban Area Comprehensive Plan to have open space qualities.

(B) Definition. For the purpose of this zone, as set forth in Statewide Planning Goal 5 OPEN SPACE consists of lands that would, if preserved and continued in its present use, do the following.

- (1) Conserve and enhance natural or scenic resources (SCENIC AREAS are defined as lands that are valued for their aesthetic appearance).
- (2) Protect air or streams or water supply.
- (3) Promote conservation of soils or wetlands.
- (4) Conserve landscaped areas, such as public or private golf courses, that reduce air pollution and enhance the value of abutting or neighboring property.
- (5) Enhance the value to the public of abutting or neighboring parks or other open space.
- (6) Enhance recreation opportunities.
- (7) Preserve historic sites.
- (8) Promote orderly urban development.

(C) Uses permitted outright. In a P-R Zone, the following uses and their accessory uses are permitted outright.

- (1) Public park or other passive recreation area including a day use picnic area, playground, open grass covered play area and similar uses.
- (2) Nature, hiking, jogging and bicycling trails, including exercise fitness courses in conjunction therewith.
- (3) Normal maintenance, replacement and improvement activities for existing parks, recreation, streets and roads and other public works facilities.
- (4) The development of parks, recreation areas and facilities, streets, roads and other public works facilities that were adopted as part of a Plan element and/or a separate Plan document directly related thereto prior to the effective date of this

chapter, or the development approved as part of an overall development plan in compliance with this chapter.

(5) Utility lines necessary for public service, limited to those underground except in the case of the replacement, maintenance and/or upgrading of existing overhead facilities.

(6) Farming and farm use, excluding structures.

(D) Conditional uses permitted. In a P-R Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and § 153.135 et seq.

(1) Type I conditional uses.

(a) Removal, fill and riprap activities directly related to a stream bank restoration project, and subject to applicable state and/or federal requirements.

(b) Temporary dike and other structural work for emergency flood protection, limited to 90 days and subject to all applicable state and federal requirements.

(c) Vegetative shoreline restoration and stabilization projects subject to applicable state and federal requirements.

(d) Projects involving active restoration of fish and wildlife habitat or water quality subject to applicable state and federal requirements.

(e) Tree and other riparian habitat alteration and removal subject to applicable state and federal requirements.

(f) The expansion of an existing use permitted by this zone by not more than 10%, either in terms of land and/or facility area.

(g) Farm structures.

(2) Type II conditional uses.

(a) Public parks or recreation areas and facilities that include structures associated with active recreation activities.

(b) Public or private museums or other historical display or exhibit areas and/or facilities.

(c) Organizational and/or educational camps, public, private or semi-public.

(d) Permanent dike and other structural work for flood and/or stream bank protection purposes.

(e) Public or private golf courses, including "Pitch 'n' Putt" and driving ranges.

(f) Submerged cable, sewer line, water line or other pipeline.

(g) Bridge crossings and support structures therefor.

(h) Dredging, fill, alteration or piling installations or slope/soil stabilization structures necessary for the installation of either a type I or type II conditional use listed in this section.

(i) Overhead or above ground public utility lines and facilities.

(j) Public or private utility or public works facilities, including, but not limited to, water systems, sewer systems, streets, roads, substations, pumping stations, sewer lift stations and the like.

(E) Dimensional standards. In a P-R Zone, the following dimensional standards shall apply.

(1) The minimum lot area shall be determined in accordance with the provisions of this section and this chapter relative to yard and other setback requirements, off-street parking and loading requirements, and any additional area as deemed necessary to maintain air, water, vegetation and other natural resource quality and adjoining and area land uses.

(2) The minimum building setback between a structure and the right-of-way line of an arterial or collector road or street shall be 50 feet except as otherwise approved by the reviewing authority.

(3) The minimum building setback from a front property line shall be 25 feet.

(4) A yard abutting a residential zone shall be a minimum of 20 feet, except as approved otherwise by the reviewing authority.

(5) A side or rear yard shall be a minimum of ten feet, except as approved otherwise by the Commission.

(6) No building shall exceed a height of 25 feet except as approved otherwise by the reviewing authority.

(7) The minimum setback from the ordinary high water line of the Ochoco Creek waterway to protect riparian habitat shall be 25 feet and 50 feet of the same for the Crooked River, except as approved or required otherwise by the city. In reviewing an application involving riparian habitat impacts or preservation, the reviewing authority shall, before issuing a final decision on the subject application, provide an opportunity for a review and evaluation thereof by the State Department of Fish and Wildlife (ODFW) and other state and federal agencies with jurisdiction over developments along the waterways.

(F) Signs. In a P-R Zone, signs are permitted in accordance with the provisions set forth by Ch. 152 as amended, or as may otherwise be set forth in this chapter.

(7) Use limitations. In a P-R Zone, permitted uses shall be subject to the following limitations and standards.

(1) Uses which are found to exceed resource carrying capacities based on qualified technical resource data and information shall not be permitted.

(2) Special project designs may be required to insure or otherwise maximize the preservation and/or protection of riparian habitats and other wildlife, public recreation or open space values.

(3) Points of access from a public street or way to a use permitted in this zone shall be so located, constructed, maintained and controlled as to minimize traffic congestion, noise and dust pollution and to protect scenic views and vistas.

(4) All parking demand created by any use permitted in this zone shall be accommodated entirely on-premises or off-street on another area or adjoining area. In no case shall the location of the off-premises area require pedestrian crossing of an arterial or collector street or highway to obtain access to the subject use except as otherwise approved by the city.

(5) No use permitted in this zone shall require the backing of traffic onto a public right-of-way to accommodate ingress or egress to the subject use unless approved otherwise by the city.

(6) All uses permitted in this zone may be required to be screened and/or fenced from abutting residential zones and uses.

(H) Off-street parking and loading. In a P-R Zone, off-street parking and loading facilities shall be provided in accordance with the provisions set forth by § 153.080 et seq.

(I) Minimum landscaping requirements. A minimum level of landscaping in accordance with the provisions set forth in § 153.080 et seq. may be required for all development in the P-R Zone, and it shall be the intent of this zone to require development to be as environmentally attractive as possible for residents and visitors to the area.

(J) Design review and use criteria. All uses permitted in this zone are subject to the design review provisions set forth in § 153.080 et seq. In the consideration of an application for a proposed use, the reviewing authority shall take into account the impact of the proposed use on the open space and natural resource qualities of the area, on nearby uses, on resource carrying capacities, on the capacity of transportation and other public facilities and services, and on the appearance of the proposal.

(K) Additional requirements. As a condition of approval of any use proposed within this zone, the reviewing authority may require the following.

(1) Increases in required setbacks and/or reduced height limitations.

(2) The preservation and/or enhancement of existing vegetative, scenic views and vistas and other natural resources, and may even consider requirements relative to building colors, placement and maintenance.

(3) Limitations on signs or lighting, time of operations and points of ingress and egress.

(4) Additional landscaping, screening, fencing and other improvements.

(5) Any other conditions considered necessary to protect existing and future open space and other natural resource values and qualities of the area.

(Ord. 1057, passed 3-24-98)

#### **§ 153.064 SIGNIFICANT RESOURCE COMBINING (SR) ZONE.**

In an SR Combining Zone, the following regulations shall apply.

(A) Purpose. The purpose of this zone is to protect significant mineral, geothermal, scenic, natural, unique, archaeological and historical resources identified and so designated by the city's Urban Area Comprehensive Plan, and to permit development which is compatible with the protection.

(B) Application. This zone shall be applied to those sites and resources as significant resource sites in the city's Urban Area Comprehensive Plan Goal 5 significant resource inventory and determined by the plan to be worthy of full protection (that is, a 3A Site), or a limited protection site (that is, a 3C Site) against conflicting uses; such resources identified for ongoing inventories as potential resources shall not be subject to this zone until, as a result of the inventory(ies), the resources are officially designated as a significant resource.

(C) Permitted uses. If a use or activity permitted outright in an underlying primary zone is listed herein as a conflicting use or activity, it shall become a type I conditional use subject to the provisions of this zone. If a use or activity permitted as a conditional use in the underlying primary zone is listed herein as a conflicting use or activity it shall be reviewed for compliance with the provisions of this zone as an integral part of the overall conditional use permit process as well as the approval requirements of the underlying primary zone and § 153.135 et seq.

(D) Review process and procedures.

(1) When a 3A decision (that is, to fully protect the subject resource) has been made for the significant resource as designated by the Plan, any application for a conflicting use or activity listed herein shall be denied unless the applicant can clearly demonstrate that the proposed use or activity will have no significant negative impacts on the resource, and findings to that effect are established by the reviewing authority. Findings to this effect shall be based, at a minimum, on consultation with the responsible agency(ies) listed within the provisions of this zone applicable to the subject impacted resource.

(2) When a 3C decision (that is, partial resource protection) has been made for the significant resource as designated by the Plan, any application for a conflicting use or activity listed herein shall be reviewed according to the requirements set forth as follows.

(a) The applicant shall submit a map(s) of the location of the resource site affected by the proposed use or activity, and a written description of the resource type and the potential impacts, positive or negative, of the proposed use or activity thereon.

(b) The applicant shall submit a written statement stipulating to the proposed mitigation measures to be provided for to minimize or eliminate any potential adverse impacts on the subject resource.

(c) The applicant shall consult with the responsible resource agency(ies) listed in this zone for the purpose of identifying any limitations on the siting, construction, operation or maintenance of the proposed use or activity which would effectively reduce, mitigate or eliminate any negative impacts to the subject resource site.

(d) In addition to other applicable requirements of this chapter and other city ordinances, the subject application shall only be approved if it clearly demonstrated that the proposed use or activity will have no significant negative impact on the subject resource site, or that the reduced preservation review criteria set forth hereinafter in division (E) are met.

(E) Reduced preservation review criteria. The environmental, social, economic and energy consequences and private costs versus public benefits of allowing the proposed use or activity shall be described in sufficient detail to provide a clear demonstration that the applicable criteria as follows are met.

(1) All significant resource sites.

(a) The resource site shall not be altered or impacted to the point where it no longer has any significant resource value. Such a point would be reached when the altered or impacted site or resource would no longer meet the significant resource requirements used to designate in the Comprehensive Plan.

(b) The amount of alteration of or impact to the significant resource shall be the minimum necessary to accomplish the purpose of the proposed use or activity.

(c) An alternative site for the proposed use or activity, which would have less impact on the resource value of the site, does not exist on the applicant's lot or parcel, or on contiguous lots or parcels that are owned by the applicant, or are reasonably available to the applicant for the proposed use. For purposes of this criteria, CONTIGUOUS means lot or parcels with a common boundary in the same zone, not separated by a public road, and in which greater than possessory interests are held by the same person, spouse or single partnership or business entity, separately or in tenancy in common. REASONABLY AVAILABLE means that an alternate site is immediately available for purchase or other method of acquisition at a cost reasonably comparable to the predominant market or assessed evaluation of similar properties in the immediate area.

(2) Riparian habitat.

(a) The criteria of this subsection shall at a minimum and except as provided otherwise in developed areas by § 153.088, apply within an area of 50 feet measured horizontally from the ordinary high water line or identified stream channel of Ochoco Creek and 100 feet from the ordinary high water line or identified stream channel of the Crooked River.

(b) 1. All developments, roadways and structures shall be located outside the riparian areas defined in subsection (E)(2)(a) except for the following.

a. For an approved bridge or other stream crossing.

b. Direct water access is required in conjunction with a water dependent use, or is required for an otherwise approved use.

c. Because of natural features such as topography, a narrower riparian area protects equivalent habitat values, or a narrower riparian area exists naturally or due to manmade features.

d. A minimal amount of riparian vegetation is present and existing development in the area significantly impacts riparian and fish and wildlife habitat values.

2. Setbacks may be reduced under the above provisions only if the threat of erosion will not be increased and a minimum setback of 25 and 50 feet respectively is maintained.

(c) All trees and at least 75% of the understory vegetation shall be retained within areas listed in (E)(2)(a) of this section, with the following exceptions.

1. Removal of dead, diseased or dying trees or leaning trees which pose an erosion or safety hazard.

2. The mowing, planting or maintenance of existing lawns, parks, recreation areas, pastures and other croplands, including the control of noxious weeds.

3. Vegetation removal necessary to provide direct access for a water-dependent use or an otherwise approved use.

4. Structural shoreland stabilization.



5. Vegetation removal necessary in conjunction with an approved in-water project, such as a bridge, riprapping, stream bank stabilization and the like.

6. Vegetation removal necessary for street improvements, vision clearance and removal of other road hazards.

(3) Mineral and aggregate resource sites.

(a) A conflicting use listed under division (F) of this section within 1,320 feet from a significant mineral or aggregate resource site (active or potential) may be required to establish setbacks in excess of those required in the underlying primary zone.

(b) The required setback shall be determined by the reviewing authority after consultation with the applicant and the owner/operator of the mineral resource land (or vice versa) to insure visual and sound screening between present and future resource uses and the conflicting use or activity. The setbacks shall be no less than those set forth by the primary zone.

(F) Conflicting uses and activities.

(1) Wetlands, and within 100 feet of a significant wetland.

(a) Ditching, draining or diking, usually but not necessarily in conjunction with farm use, building and road construction.

(b) Fill for any purpose, usually but not necessarily in conjunction with building, road and roadway construction and siting.

(c) Water withdrawals or impoundments.

(d) Any development which significantly impacts an identified wetlands or the resource values thereof.

(2) Archaeological resources.

(a) Any activity requiring excavation.

(b) Construction activities.

(c) Activities resulting in permanent coverage of an identified resource or site.

(3) Scenic resources.

(a) Any permanent use screening inhibiting or detracting from public view of the subject resource.

(b) Any activity directly altering the scenic value of the resource.

(c) Wrecking/junk yard, solid waste disposal site.

(d) Alteration of the scenic resource site.

(e) Exploration, mining and processing of geothermal, mineral or aggregate resources.

(4) Unique resources. Any use identified as having an adverse impact on the designated uses and the identified value(s) thereof.

(5) Historic resources. Demolition or alteration.

(6) Mineral and aggregate resources.

(a) Any permanent use which reasonably precludes the development and use of such resource for the use designated or intended.

(b) Any noise and/or dust sensitive use, including residential, church, schools, medical care facilities and the like.

- (c) Public or private recreation use or development, both commercial and noncommercial.
- (d) Tourist or travelers' accommodations, including motels, hotels, campgrounds, resorts, guest ranches and the like.
- (e) Wildlife habitat area or scenic waterway or highway.
- (7) Fish and wildlife habitat.
  - (a) Removal of habitat except when associated with habitat improvement.
  - (b) Residential, commercial or industrial uses.
- (8) Groundwater resources.
  - (a) Development in areas when the aquifer may be depleted.
  - (b) Development that may pollute groundwater.
  - (c) Development in areas of high groundwater tables.
- (9) Natural areas.
  - (a) Utility facilities, including overhead power lines and transmission towers, substations and the like.
  - (b) Dwellings and other residential uses.
  - (c) Solid waste disposal sites and facilities.
  - (d) Exploration, mining or processing of geothermal, aggregate or mineral resources.

(G) Responsible agency list.

Resource	Agency
Wetlands:	<ul style="list-style-type: none"> <li>Div. State Lands</li> <li>Dept. Water Resources</li> <li>Dept. Fish &amp; Wildlife</li> <li>Ntl. Fish &amp; Wildlife</li> </ul>
Archaeological res:	<ul style="list-style-type: none"> <li>Co. Historical Society</li> <li>St. Hist. Pres. Office</li> <li>Affected Indian Tribes</li> <li>U.S. Bur. Land Mgt.</li> <li>U.S. Forest Service</li> </ul>
Scenic resources:	<ul style="list-style-type: none"> <li>St. Parks &amp; Rec. Div.</li> <li>St. Dept. of Trans.</li> <li>U.S. Bur. Land Mgt.</li> <li>U.S. Forest Service</li> <li>Chamber of Commerce</li> </ul>
Unique resources:	<ul style="list-style-type: none"> <li>City and County</li> <li>Specific related agencies</li> </ul>
Historic resources:	<ul style="list-style-type: none"> <li>Co. Historical Society</li> <li>St. Hist. Pres. Office</li> <li>U.S. Bur. Land Mgt.</li> <li>U.S. Forest Service</li> </ul>
Mineral/aggregate res:	<ul style="list-style-type: none"> <li>Co. Road Dept.</li> <li>City Street Dept.</li> <li>State Highway Div.</li> <li>St. Dept. Geol/Min. Ind.</li> </ul>

Fish and wildlife habitat:	U.S. Bur. Land Mgt U.S. Forest Service St. Dept. Fish/Wildlife U.S. Dept. Fish/Wildf.
Groundwater resources:	Co. Dept. Env. Health City Public Works Dept. St. Health. Div. St. Dept. Env. Quality St. Dept. Water Res. U.S. Bur. Reclamation Ochoco Irrig. District

(H) Historic buildings and sites.

(1) Alteration/demolition permits. A permit is required for alteration or demolition of any structure listed in the Plan's Inventory of Historic Resources as a significant historic resource.

(a) ALTERATION means any addition to, removal of or change in the exterior part of a structure and shall include modification of the surface texture, material or architectural detail of the exterior part of the structure, but shall not include paint color.

(b) Nothing in this subsection shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered herein that does not involve a change in design, material or external appearance thereof.

(c) Nor does this subsection prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a Building Official determines that the emergency action is required for public safety due to an unsafe or dangerous condition.

(d) A permit is not required under this section for alteration of a historic structure when review of the proposed alteration is required by an agency of the state and/or federal government.

(2) Review procedures.

(a) Application. A property owner or his/her authorized agent may initiate a request for a permit for alteration or demolition of a historic structure by filing an application with both the appropriate Building Official and the city's designated Planning Official.

(b) Public review process. The city's designated Planning Official shall initiate a public review process on the subject permit request within ten days of receipt thereof as followed.

1. Provide individual written notice of the application to the following.

- a. Property owners within 100 feet.
- b. City and/or County Planning Commission members.
- c. Local Historical Review Committee and/or County Historical Society as such may be applicable.
- d. State Historic Preservation Office.

e. Other identifiable potentially affected person or parties.

2. The notice shall provide for a minimum of ten, but not more than 20 days, for all persons or parties to respond relative to the subject application.

3. If no objection is received within the response period, the city's Planning Official may take action on the subject application for approval, approval with amendments or conditions, denial or referral to the City or County Planning Commission or Historical Review Committee as may be applicable for public hearing.

4. If one or more objections are received, referral for public hearing shall be mandatory.

(c) Decision.

1. If not referred for public hearing, the City Planning Official shall render a decision on an application within ten days of closure of the public response period.

2. A copy of the decision shall be mailed to the applicant, the owners of the affected property, the City or County Planning Commission and/or Historical Review Committees, the State Historic Preservation Office and other persons specifically requesting the notification.

3. The mailing shall be within five working days following the date of the decision.

(3) Planning Official action.

(a) Alteration. In the case of an application for alteration of a historic structure, the Planning Official shall do the following.

1. Approve the request as submitted.  
2. Approve the request with modifications or conditions.

3. Deny the request.  
4. The Planning Official may refer the application to the City or County Historical Review Committee or Society, or both, and to the State Historic Preservation Office for review and written recommendation prior to taking action thereon.

(b) Demolition. In the case of an application for demolition of a historic structure, the Planning Official shall authorize either of the following.

1. Immediate issuance of the permit if the following findings are evident.

a. The structure cannot be economically rehabilitated.  
b. A program or project does not exist which may reasonably result in preservation of the structure.

c. Delay of the permit would result in unnecessary and substantial hardship to the applicant and/or property owner.

d. Issuance will not act to the substantial detriment of the public welfare considering the significance of the structure and the economic, social, cultural and energy consequences of demolition.

2. Delay issuance of the permit for up to 90 days.

During this period, the Planning Official, in conjunction with the City Council, the City or County Historical Committee or Society and SHPO, shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried out in a reasonable period of time to prevent demolition of the structure.

(c) Criteria: exterior alteration. The City Planning Official shall approve an application for exterior alteration if the proposed alteration is determined to be harmonious and compatible with the appearance and character of the historical building and shall disapprove any application if found detrimental as being unsightly, grotesque or adversely affecting the architectural significance, the integrity or historical appearance, the educational or historical value of the building. The following guidelines apply to exterior alterations of historical buildings.

1. Retention of original reconstruction so far as practicable, and the preservation of original exterior materials and details.

2. Additional stories may be added to historic buildings provided that:

a. Zoning height limitations are met.  
b. The height does not exceed that which was traditional for the style of the building.

c. Added height does not alter the traditional scale and proportions of the building style.

d. Added height is visually compatible with adjacent historic and other buildings of the same general type in the area.

(d) Bulk. Horizontal additions may be added to historic buildings provided that:

1. The bulk of the addition does not exceed that which was traditional for the building style.

2. The addition maintains the traditional scale and proportion of the building style.

3. The addition is visually compatible with adjacent historic buildings.

(e) Visual integrity of structure. The lines of columns, piers, spandrels and other primary structural elements shall be maintained so far as practicable.

(f) Scale and proportion. The scale and proportion of altered or added building elements, the relationships of voids to solids (windows to walls) shall be visually compatible with the traditional architectural character of the historic buildings in the area.

(g) Materials, color and texture. The materials, colors and textures used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic buildings of the area.

(h) Signs, lighting and other appurtenances. Signs, exterior lighting and other appurtenances such as walls, fences, awnings and landscaping shall be visually compatible with the traditional architectural character of the historic buildings of the area.

(Ord. 1057, passed 3-24-98)

SUPPLEMENTARY PROVISIONS

**§ 153.080 ACCESS-MINIMUM LOT FRONTAGE.**

All lots shall abut a street other than an alley for a width of at least 50 feet, except that lots fronting on a curvilinear street or a cul-de-sac may be approved with a frontage of not less than 35 feet.

(Ord. 1057, passed 3-24-98)

**§ 153.081 CLEAR VISION AREAS.**

In all zones, a clear-vision area shall be maintained on the corners of a property at the intersection of two streets, a street and a bike or pedestrian way and a street and an alley. A clear- vision area shall contain no plantings, sight-obscuring fences, walls, structures or temporary or permanent obstructions exceeding two and one-half feet in height measured from the grade of the street centerline, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above the grade, and trunk diameter does not exceed 18 inches.

(A) Measurement of clear vision areas. A clear- vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the lot lines for a distance specified in this section, or where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides.

(B) Clear-vision areas established. The following measurements shall establish clear-vision areas within the city and the urban area of the city.

Zone	Clear-Vision Measurement
Residential	20 feet
Commercial*	20 feet
Industrial	30 feet
Other	30 feet

\* Unless otherwise approved by the reviewing or jurisdictional authority (for example, State Highway Division involving a state highway; County Road Department involving a county road; City Street Department involving a city street).  
(Ord. 1057, passed 3-24-98)

**§ 153.082 PROJECTIONS FROM BUILDINGS.**

Architectural features, such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features may project up to two feet into a required yard or setback, provided, however, that the projection is not closer than three feet to a property line.

(Ord. 1057, passed 3-24-98)

**§ 153.083 AUTHORIZATION OF SIMILAR USES.**

(A) The city may authorize a use that is not specifically listed in a specific zone if the use is of the same general type as other uses permitted in the subject zone, unless the city finds the following.

- (1) The proposed use is specifically permitted in another zone; or
- (2) The proposed use is more similar to uses provided for in another

zone; and

(3) That the permitting of the proposed use in the zone requested would be detrimental to the intent and purpose of the zone and this chapter in general.

(B) The application for and processing procedure for a similar use approval shall be as required for a type II conditional use by this chapter.

(Ord. 1057, passed 3-24-98)

**§ 153.084 PROVISIONS REGARDING ACCESSORY USES.**

An accessory use shall comply with all requirements for a principal use, except as this chapter specifically allows to the contrary, and shall comply with the following limitations.

(A) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales (that is, for personal, noncommercial use only), unless the use is duly authorized as a home occupation or commercial use.

(B) A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house and if at least one off-street parking space is provided for each bedroom in the guest house, and provided the structure is used as intended (that is, for occasional guests and is not found to be occupied for extended periods of times by the same party (that is, normally not for more than two weeks at any given time)).

(C) Regardless of rear yard requirements, in a residential zone, an accessory structure not exceeding a height of one story nor an area of 450 square feet may be placed within five feet of the rear lot line, and when the rear lot line adjoins an alley, the accessory structure may be placed on the rear lot line provided eaves and other structural overhangs do not protrude into or over the alley right-of-way, and provided the structure is not constructed on or over an existing public utility or other public facility easement.

(D) Boats, trailers, travel trailers, pick-up campers, recreational vehicles, motor homes and similar recreational vehicles and equipment may be stored on a lot, but shall not be used as an accessory use in any zone unless otherwise provided for by this chapter, and the parking or storage shall be at least three feet to (or from) a property line.

(Ord. 1057, passed 3-24-98)

**§ 153.085 OFF-STREET PARKING AND LOADING: PROVISIONS AND REQUIREMENTS.**

(A) The provision and maintenance of off-street parking and loading facilities are continuing obligations of the property owner. No building permit shall be issued until plans are submitted and approved by the city that show property that is and will remain available for exclusive use as off-street parking and loading facilities as required by this section and this chapter. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the required parking and loading facilities set forth by this section and this chapter. It is not, however, the intent of these provisions to require off-street parking and loading facilities in a manner as to unreasonably limit improvements to existing structures and uses, particularly in that area identified as the downtown core commercial area.

(1) The provisions of this section may be exempted for uses existing on or before the effective date of this chapter that are an outright permitted use in a specific zone in which the existing buildings on a lot or parcel of land are of a scale that there is no remaining room for off-street parking and loading facilities; this exemption

shall also apply to the exterior remodeling and/or expansion of the uses up to and not exceeding 25% of the total square footage of all structures on a specific lot or parcel under unit ownership existing on or before the effective date of this chapter, provided, however, that any existing parking displaced by the remodeling and/or expansion shall be replaced.

(2) More specifically, the provisions of this section shall be exempted for uses permitted outright in a C-1 Zone, which occupy an existing building on a parcel of land which contains no room for parking. For those parcels of land which do have room for parking, the standards of this section shall apply.

(3) In C-2 and C-3 Zones, a use existing on or before the effective date of this chapter may be exempt from meeting the required on-site parking requirements if the use is located on a lot or parcel under unit ownership on or before the effective date of this chapter if the buildings thereon are on such scale that there is no remaining room for off-street parking, and/or if there is sufficient off-site parking within a reasonable walking distance of not more than 1,200 feet that is available for the subject use in compliance with the standards set forth herein.

(4) Permitted uses within a specific zone existing on or before the effective date of this chapter which do not have adequate land to increase their parking areas to meet the requirements of this chapter shall not be required to purchase or otherwise acquire property to increase their parking areas.

(B) At the time of construction, reconstruction, enlargement of a structure or at the time a use is changed in any zone, off-street parking facilities shall be provided in accordance with the requirements set forth by this section unless otherwise approved by the reviewing authority. Where the square feet of the structure or use are specified as the basis for the requirements, the area measured shall be the gross floor area primary to the functioning of the particular use of the structure and property. When the requirements are based on the number of employees and/or the number of occupants, customers or users, the number counted shall be the number of employees working on the premises during the largest shift at peak season, and the number of occupants, customers or users shall be counted as the maximum rated capacity. Fractional requirements shall be counted as a whole space and parking spaces in a public street, including an alley, shall not be eligible as fulfilling any part of the parking requirement.

Use Description	Minimum Requirements
<b>Residential</b>	
One, two and three family dwelling units and garage approaches	Two spaces per unit, including driveways
Multi family units (except those limited to the elderly)	1.5 spaces per unit up to 8
Multi family units limited to the elderly	One space per unit or as otherwise approved based on documented spaces per unit for comparable types of complexes, plus 1 space for each manager and employee
Bed and breakfast	One space per guest room plus 2 spaces for owner/ manager
Boarding, lodging or rooming house	One space per unit plus 2 spaces for owner/manager
<b>Commercial Residential</b>	
Hotels and motels	One space per guest room plus 2 spaces for owner/ manager



Club, lodge or convention center      Number of spaces calculated as required to meet combined requirements of all primary uses

#### Institutional

Convalescent hospital, nursing home, sanitarium, rest home, home for the aged, elderly assisted living complex      One space per each 4 beds or lodging units for patients or residents, plus 1 space per each two employees

Hospital      One space per each 4 beds, plus 1 space per each 2 employees on the largest work shift

#### Place of Public Assembly

Church One space per each 4 seats or per each 6 ft. of bench seating or 1 space per each 4 people of the design capacity of the main assembly area, whichever is less

Library, reading room One space per each 400 sq. ft. of floor area plus 1 space per each employee

Nursery, kindergarten Two spaces per teacher, plus 1 space for each 2 aides, and adequate off-street parking and loading areas for the delivery/pickup of patrons

Elementary or junior high      Two spaces per classroom plus 1 space per adm. employee or 1 space per each 4 seats or 6 ft. of bench length in main auditorium or assembly room, whichever is greater

High school, college, commercial adult school      Two spaces per classroom plus 1 space per adm. employee, plus 1 space per each 4 students, or 1 space per 4 seats or 6 ft. of bench length in main auditorium or assembly room, whichever is greater

Other auditorium or meeting facility One space per each 4 seats, or 6 ft. of bench length, or 1 space for each 75 sq. ft. of assembly room floor area

#### Commercial Amusement

Stadium, arena, theater      One space per each 4 seats or 6 ft. of bench length

Bowling alley Four spaces per alley plus 1 for each employee

Dance hall, skating rink      One space per each 100 sq. ft. floor area plus 1 space per each employee

#### Commercial

Retail store, except those handling exclusively bulk materials      One space per 200 sq. ft. floor area for retail sales, plus 1 space per employee

Service or repair shop, retail store handling exclusively bulk merchandise; for example, automobiles, furniture and appliances      One space per 1,000 sq. ft. of floor area designated for sales and displays, plus 1 space for each employee in peak employment shifts.

Bank, offices (except medical and dental)      One space per 600 sq. ft. of customer service area, plus 1 space per employee during peak employment shifts.

Medical/dental clinic One space per 300 sq. ft. floor area, plus 1 space per employee.

Eating and/or drinking establishment One space per 100 sq. ft. floor area, plus 1 space per employee

Mortuaries, funeral home      One space per 4 seats or 6 ft. bench length in chapels

#### Industrial

Storage warehouse, manufacturing, transport fac.      One space per employee.

Wholesale establishment      One space per employee plus 1 space per 600 sq. ft. of patron serving area.

Other Structures and Uses

To be determined by the reviewing authority on the basis of comparable use requirements.

(Ord. 1057, passed 3-24-98)

**§ 153.086 OFF-STREET PARKING AND LOADING: DESIGN/IMPROVEMENT STANDARDS.**

(A) In the event that several uses occupy a single lot or building, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(B) Owners of two or more uses, structures or parcels of land may agree to jointly utilize the same parking, loading and access facilities when the hours of operation do not overlap; provided however that satisfactory legal evidence is submitted to and approved by the reviewing authority in the form of deeds, leases or contracts to establish the joint use and provide for improvements and maintenance thereof.

(C) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall not be located farther than 600 feet from the building or use they are required to serve, measured horizontally in a straight line from the building or use, or not more than 1,200 feet from the building or use they are required to serve, measured along the route of the shortest and most direct walking distance, whichever is greater.

(D) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of inoperable or other non-passenger vehicles, materials or the parking of trucks used in conducting the business or use.

(E) Except as may be approved otherwise by the city, all areas used for parking and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use as herein defined. DURABLE AND DUSTLESS SURFACES shall mean to be surfaced with asphaltic concrete, concrete or equivalent material.

(F) Except for parking in conjunction with single and two family dwellings, the following off-street parking development standards shall apply.

(1) Parking areas, aisles and turnarounds shall be paved with concrete, asphaltic or comparable durable and dustless surfaces as defined in division (E) of this section, or as otherwise approved by the city or an authorized official thereof.

(2) Approaches to driveways providing ingress and egress to parking areas shall be paved with asphalt, asphaltic concrete or concrete surfacing and inspected by the City Street Superintendent. In the event that a serving street is not paved, the approach may be maintained to the same standard as the street until the street is paved.

(3) Parking areas, aisles and turnarounds shall have provisions made for the onsite collection of drainage waters to eliminate sheet flow of the waters onto or across sidewalks and other pedestrian ways, bike paths, public rights-of-ways and abutting private property.

(4) In areas that are duly designated for parking, parking spaces shall be permanently and clearly marked except as otherwise approved by the city.

(5) Wheel stops and bumper guards shall be provided where appropriate for parking spaces abutting a property line or building and no vehicle shall overhang a public right-of-way or other property line. Unless otherwise approved, parking spaces along the outer boundaries of a parking lot shall be contained by a curb which is at least four inches high and set back a minimum of four and one-half feet from the property line or by a bumper rail.

(6) Artificial lighting for parking areas which may be provided or required shall be shielded or deflected so as not to shine directly into adjoining properties, dwellings or other types of residential units and so as not to create a hazard to the public use of a street.

(G) Unless otherwise provided for, required parking spaces and other nonstructural parking facilities may be located in required yards and other setbacks.

(H) Except for parking to serve residential uses not including multi family dwelling complexes, parking and loading areas adjacent to residential uses shall be designed to minimize disturbance of residents by the erection of a sight-obscuring fence of not less than four nor more than six feet in height, except where vision clearance is required.

(I) Except as may be approved or required otherwise relative to ADA requirements and changing trends towards more compact vehicles, the standards set forth in the table that follows shall be the minimum for parking lots approved under this section and this chapter (all figures are in feet except as noted).

Land Development (19' stall)	Parking Aisle Width	Angle (degrees) Curb Length (per car)	Stall Width Center-to-Center	Stall to Curb Width (2-row bin with access road)	
0	8.5	8.5	12.0	23.0	29.0
20	8.5	14.5	11.0	24.9	40.0
30	8.5	16.9	11.0	17.0	44.8
40	8.5	18.7	12.0	13.2	49.4
45	8.5	19.4	13.5	12.0	52.3
50	8.5	20.0	12.5	11.1	52.5
60	8.5	20.7	18.5	9.8	59.9
70	8.5	20.8	19.5	9.0	61.1
80	8.5	20.2	24.0*	8.6	64.4
90	8.5	19.0	25.0*	8.5	63.0

Corner spaces shall be designated for compact cars and may be approved with lesser standards.

\*Two-way circulation

(J) Except as otherwise provided for in this division (J), or as may otherwise be approved by the reviewing authority, required parking lots, areas and facilities shall be improved and available for use by the time the use to be served by the parking is ready for occupancy.

(1) An extension of time may be granted by the city or other jurisdictional authority providing a performance bond, or its equivalent, as approved by the city and the other jurisdictional authority, is posted equaling the cost to complete the improvements as established by actual contractor's bid or by a licensed engineer approved and/or selected by the city.

(2) The extension of time may not exceed one year and, in the event the improvements are not completed within the one year time period, and an additional time period is not granted by the city, the bond or its equivalent shall be forfeited and the improvements thenceforth constructed under the direction of the city.

(3) In no case shall the total time period of all extensions granted exceed a period of more than three years. In the case that costs to complete the construction are in excess of the bond or its equivalent, including the costs incurred by the city for engineering, bid preparation and advertisement, and construction inspection, the applicant and/or property owner shall be liable for the extra costs.

(K) (1) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(2) Merchandise, materials or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck or other motor vehicle shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.

(a) If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.

(b) Off-street parking areas used to fulfill the requirements of this section and this chapter shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs of the subject use.

(L) (1) Access aisles shall be surfaced and of sufficient width for all vehicle turning and maneuvering, and in no case shall access aisles be approved which are less than 12 feet in width.

(2) All residential off-street parking areas commencing from a public street or highway shall have at least one service drive, surfaced with a durable and dustless surface as defined in division (E) of this section, and all service drives shall likewise be so surfaced.

(3) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provided maximum safety of traffic ingress and egress, and maximum safety of pedestrians and vehicular traffic on-site.

(4) Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street other than an alley will be required to accommodate ingress and egress. Driveways serving the areas shall be designed and constructed to facilitate the flow of traffic on and off the site, with due regard to pedestrian and vehicle safety, and shall be clearly and permanently marked and defined. In no case shall two-way and one-way driveways be less than 24 feet and 12 feet in width respectively.

(5) The number of required service drives shall be determined by the City Superintendent of Public Works, City Council or other jurisdictional authority.

(6) All commercial service drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives.

(7) Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line and a straight line joining the lines through points 20 feet from their intersection or as otherwise required in § 153.081.

(M) For those uses which require off-street parking, a plan drawn to scale indicating how the off-street parking and loading requirements are to be fulfilled shall accompany the application for site plan review or conditional use permit. The plan shall show all those elements necessary to indicate that these requirements are being fulfilled and shall include, but not be limited to the following.

- (1) Delineation of individual parking spaces.
- (2) Circulation area necessary to serve spaces.
- (3) Access to streets, alleys and properties to be served.
- (4) Proposed curb cuts, locations and widths.
- (5) Dimensions, continuity and substance of screening.
- (6) Landscape, lighting and signage plans.
- (7) Grading, drainage, surfacing and subgrading details.
- (8) Delineations of all structures or other obstacles to parking and

circulation on the site.

(Ord. 1057, passed 3-24-98)

### **§ 153.087 LANDSCAPING REQUIREMENTS.**

The following minimum landscape requirements are established for all developments subject to design review plan approval, unless approved otherwise by the reviewing authority.

(A) Exemption. The provisions of this section may be exempted for uses existing on or before the effective date of this chapter that are a permitted use in a specific zone in an existing building or buildings on a lot or parcel of land of the scale that there is no remaining room for landscaping; this exemption shall also apply to the exterior remodeling and/or expansion of not more than 25% of the total square footage of all enclosed structures on a lot or parcel existing under a unit ownership on or before the effective date of this chapter.

(B) Area required. Except as approved otherwise by the reviewing authority, the following minimum percent of a parcel area shall be landscaped for the following uses.

- (1) Duplexes and triplexes: 25%
- (2) Multi family dwelling complexes containing four or more units:  
20%
- (3) Commercial uses not in the C-1 Zone: 10%.
- (4) Industrial uses: A minimum five-foot landscaped buffer along any adjoining public right-of-way of a collector or arterial street or highway.

(5) Minimum area requirements may include landscaping around buildings, in parking and loading areas, outdoor recreational use areas and screening and buffering areas.

(C) Landscaping defined. Required landscaping may include, but is not limited to, a combination of any of the following materials: living plant material such as trees, shrubs, groundcover, flowers and lawn (including native vegetation); and nonliving materials such as benches, walkways and courtyards, consisting of brick, decorative rock or other decorative materials.

(D) Existing vegetation. Existing site vegetation may be utilized to the maximum extent possible consistent with building placement and the applicable proposed landscape plan.

(E) Parking lots. Parking areas may be required to be landscaped in accordance with the following minimum requirements.

(1) In commercial and residential developments, parking areas shall be divided into bays, and between or at the end of each parking bay a curbed planter containing at least 16 square feet may be required.

(2) If required, each planter shall contain at least one tree or shrub and ground cover.

(3) The areas shall be designed to be protected from being damaged by vehicles using the parking area.

(4) Unless sidewalks are provided adjacent to a structure, customer or resident parking areas should be separated from the exterior wall of a commercial or residential structure by a minimum four-foot strip of landscaping.

(5) Where a parking, loading or driveway area serving a multi family, commercial, industrial or government use abuts a public right-of-way of a collector or arterial street or a local street across from a residential zone, or abuts a residential zone, a screen planting or other approved landscaped planter strip may be required between the parking area and the right-of-way without encroaching into a clear vision area or sidewalk.

(F) Buffering and screening. When required, buffering and screening areas shall conform to the following minimum requirements.

(1) Purpose. The purpose of buffering and screening requirements are to reduce the impacts of a proposed use on adjacent uses and zones which provide for different types of uses. The reviewing authority may waive or reduce the requirements where

existing topography or vegetation is appropriate or otherwise negates the effectiveness or intended purpose or benefits of the buffering and screening.

(2) An aesthetic and/or noise reducing landscaped buffer may be required between land uses as follows.

(a) Commercial uses abutting a residential zone, public recreation area or use, institutional use, scenic resource, noise sensitive use or public right-of-way.

(b) Industrial uses abutting residential or commercial zones, public recreation area or use, institutional use, scenic resource, noise sensitive use or public right-of-way.

(c) Multi family complexes containing four or more units abutting a residentially zoned parcel that is limited to single family residential use, public recreation area, scenic resource, institutional use or public right-of-way.

(d) Manufactured or mobile dwelling subdivision or park abutting a residentially zoned parcel that is limited to single family residential use, public recreation area, scenic resource, institutional use or public right-of-way.

(e) Public or private recreation area or facility abutting a residential or commercial use, institutional use, scenic resource, noise sensitive use or public right-of-way.

(3) A buffer or screening area may only be occupied by screening utilities and landscaping materials, but the same may be located within the required yard or setback requirements provided vision clearance requirements are complied with.

(4) In lieu of the foregoing requirements, an applicant may provide for landscaping and screening, including plantings, fences, walls, walks and other features designed to afford the same degree of buffering as the standards above. A plan and specifications for an alternative shall be reviewed and approved by the reviewing authority with jurisdiction over the approval of the applicable use.

(G) Plant material installation standards. Except as otherwise approved by the city, the following standards shall apply to plant materials and the installation thereof as provided in accordance with the provisions of this section.

(1) Landscape plant materials shall be properly guyed and staked, and shall not interfere with vehicular or pedestrian traffic or parking and loading.

(2) Trees shall be a minimum size of four feet in height and be fully branched at the time of planting.

(3) Shrubs shall be supplied in one gallon containers or six-inch burlap balls with a minimum spread of 12 inches.

(4) Rows of plants should be staggered to provide for more effective coverage.

(H) Maintenance and plant survival. All landscaping approved or required as a part of a development plan shall be continuously maintained, including necessary watering, weeding, pruning and replacement of plant materials. Except where the applicant proposes landscaping consisting of drought-resistant plantings and materials that can be maintained and can survive without irrigation, landscaped areas shall be irrigated. If plantings fail to survive, it is the responsibility of the property owner to replace them.

(Ord. 1057, passed 3-24-98)

### **§ 153.088 RIPARIAN HABITAT.**

In addition to the provisions set forth by § 153.064(E)(2), the provisions of this section shall, at a minimum within areas already extensively developed for urban uses, apply within an area of 25 feet measured horizontally from the ordinary high water line or identified stream channel of Ochoco Creek, and 50 feet from the ordinary high water line or identified stream channel of the Crooked River, the areas are identified as the riparian habitat areas of the respective stream ways.

(A) Roadways and structures shall not be located within the identified riparian areas, except for the following.

(1) For an approved bridge or other stream crossing.

(2) Direct water access is required in conjunction with a water-dependent use.

(3) Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or that a narrower or wider riparian area exists naturally; or no significant amount of riparian vegetation is present.

(4) Roadway access is required for an otherwise approved use.

(B) All trees, and at least 50% of the underscore vegetation shall be retained within identified riparian habitat areas, with the following exceptions.

(1) Removal of dead, diseased or dying trees or leaning trees which pose an erosion or safety hazard.

(2) The mowing, planting or maintenance of existing lawns, parks, recreation areas, pastures and other croplands, including the control of noxious weeds.

(3) Vegetation removal necessary to provide direct access for a water-dependent use, or for new bridge construction, or for routine repair, operation, or maintenance of bridges and highway or for the necessary construction of a street or highway improvement within an existing right-of-way, or an otherwise approved use.

(4) Vegetation removal necessary for maintenance of clear vision areas and the removal of roadside hazards.

(5) Vegetation removal necessary in conjunction with an approved in-water project, such as bridge, rip-rapping, stream bank or structural shoreland stabilization and the like.

(C) All proposals and activities within the identified areas set forth in this section shall be reviewed and approved by the city. The reviewing authority, prior to the approval of an application for the habitat removal, shall provide an opportunity for the Oregon Department of Fish & Wildlife (ODFW) to review, comment and make recommendations relative to the subject proposal. Only the City Planning Commission may approve the application if recommendations received from ODFW cannot be resolved at another level of review.

(D) There shall be no permit fee for the special applications, except that if an evaluation of the situation by a qualified expert is required, the applicant shall be responsible for the costs.

(Ord. 1057, passed 3-24-98)

#### **§ 153.089 CUTTING AND FILLING.**

The cutting, filling and grading of building sites shall conform to the following standards unless it is demonstrated that physical conditions warrant other standards.

(A) Lot elevations may be altered to not more than an average of three feet from the natural pre-existing grade or contour without Planning Commission approval.

(B) Cut slopes shall not exceed one foot vertically to one and one-half feet horizontally.

(C) Fill slopes shall not exceed one foot vertically to two feet horizontally.

(D) Where an alteration averaging more than three feet is proposed or necessary, or where cut and fill slopes greater than those set forth above are proposed or necessary, a site investigation and analysis by a registered geologist and/or licensed engineer shall be prepared as may be required by the city. The report shall demonstrate construction feasibility and the geologist or engineer shall attest to the feasibility and



shall certify an opinion that construction on the cut or fill will not be hazardous to the development of the property or to surrounding properties.

(1) The Planning Commission shall hold a public hearing on the matter in conformance with the requirements for a type II conditional use permit.

(2) The Planning Commission decision on the proposal shall be based on the following considerations.

(a) That based on a geologist's or engineer's report that construction on the cut or fill will not be hazardous to development of the property or to surrounding properties.

(b) That construction on the cut or fill will not adversely affect the views of adjacent property over and above the effect without land alteration, or that modifications to the design and/or placement of the proposed structure will minimize the adverse impact.

(c) That the proposed grading and/or filling will not have an adverse impact on the drainage on adjacent properties or other properties down slope.

(3) Filling of wetlands shall only be permitted after a permit has been issued by the Division of State Lands (DSL) and U.S. Army Corps of Engineers (if applicable), and where the City Planning Official, the Building Official, and City Public Works Superintendent find that the filling will not cause flooding of adjacent properties or public streets or drainage systems, and that drainage systems are adequate to handle actual or projected storm run-off.

(Ord. 1057, passed 3-24-98)

#### **§ 153.090 FENCES.**

Fences, except of barbed wire and of similar hazardous materials, are permitted in any zone and do not require a zoning permit for construction. The fences shall, however, be in compliance with the following provisions.

(A) Fences within the setback areas of yards shall not exceed six feet in height except as otherwise approved as a type I conditional use.

(B) Fences which may be located in front yards shall not exceed four feet in height.

(C) Fences which may be located within clear-vision areas shall not exceed two and one-half feet in height. Other fences shall not exceed eight feet in height unless otherwise approved by the city.

(D) Fences shall be maintained in good condition at all times and shall not create any unsightly or hazardous condition.

(E) All fences, or portions thereof, shall be located or constructed in a way as to not prevent reasonable access to abutting properties for building maintenance or fire protection purposes.

(F) Fences, or portions thereof, shall be located or constructed in a manner as to not unreasonably obstruct significant scenic views of the valley, mountains or natural features of the area from adjacent buildings.

(G) The height of a fence shall be measured from the ground level where located.

(H) As applicable, the construction or reconstruction of fences shall comply with the Uniform Building Code as administered by the City-County Building Department.

(Ord. 1057, passed 3-24-98)

**§ 153.091 DECKS.**

Except as otherwise required for compliance with the Uniform Building Code as administered by the City-County Building Department, the following provisions are applicable to decks.

(A) Decks may be constructed within setback areas, provided they shall not exceed three feet in height and are not covered, including any fixed benches, railings or other attachments. Height of the deck and any attachments shall be measured from the ground level where located.

(B) Decks shall not extend beyond three feet from a property line, or in the case of a lot abutting a stream channel or riparian habitat area, shall not extend closer than six feet from the channel or area.

(C) Decks shall be constructed in a manner as not to be detrimental to abutting properties or obstruct scenic views from adjacent buildings.

(Ord. 1057, passed 3-24-98)

**§ 153.092 AMUSEMENT DEVICES.**

Except as otherwise approved as a separate and distinct commercial use subject to the provisions of the applicable zoning, amusement devices are permitted only as an accessory use to commercial uses and tourist accommodations. The amusement devices as an accessory use shall conform to the following.

(A) No more than four amusement devices are permitted at any one business location. For the purpose of this section, a BUSINESS LOCATION is defined as a building, or portion of a building, where a business having amusement devices is operated pursuant to a city business license (as applicable) or the applicable zoning, and where that business does not have direct access by means of an opening to another business in that building. Where a business does have direct access to another portion of a building using an access other than a common corridor, the businesses shall be considered one business location for the purposes of this section.

(B) The holder of the city business license (as applicable) and/or the owner/operator for the business location must also be the holder of the state amusement device license issued pursuant to O.R.S. Ch. 320 for the amusement devices at that location as may be applicable.

(C) All amusement devices must be confined to a business location and may not be placed in portions of buildings that have common entry or exit areas, halls or walkways, restrooms or similar public areas.

(D) A zoning permit shall be obtained from the city prior to the placement of one or more amusement devices in a business location meeting the requirements of this section and shall be renewed on an annual basis. There shall be no charge for the permit.

(Ord. 1057, passed 3-24-98)

**§ 153.093 STORAGE-UNUSED VEHICLES/JUNK/DEBRIS.**

It shall be unlawful to keep inoperative vehicles or vehicle parts within view of persons on a public street or adjacent properties, or to keep unsightly or potentially hazardous accumulations of debris within view of persons on the public street or adjacent properties.

(Ord. 1057, passed 3-24-98)

**§ 153.094 OUTDOOR MERCHANDISING.**

(A) Purpose. The purpose of this section is to ensure that certain commercial activities are carried out in a manner that is aesthetically compatible with adjacent and area uses, minimizes congestion, minimizes impacts on pedestrian circulation, maintains open space areas designed for pedestrian use and maintains the residential characteristics of residential areas.

(B) Prohibition. Except as otherwise approved by the city, all uses in the commercial zones shall be conducted entirely within a completely enclosed building, except that the outdoor storage display, sale or rental of merchandise or services may be permitted where the standards of division (D) of this section are met.

(C) The following uses and activities, subject to applicable conditions, are exempt from the prohibition set forth in division (B) of this section.

- (1) The sale of living plants and plant materials.
- (2) Outdoor seating in conjunction with a restaurant.
- (3) Christmas tree sales lot.
- (4) The dispensing of gasoline and other automotive supplies at a service station.
- (5) Newspaper vending machines subject to division (E) of this section.
- (6) Sales of food items, arts and handicrafts by a nonprofit organization subject to division (E)(2).
- (7) Automatic teller machines, subject to the design review requirements set forth in this subchapter.
- (8) Telephone booths, subject to the design review requirements set forth in this subchapter.
- (9) Outdoor displays of merchandise common to a use permitted within the applicable zone such as automobile sales, boat sales, building materials, farm and other heavy equipment, hardware and the like, when such is approved as an integral component of an approved use within the applicable zone.
- (10) Outdoor sales of goods and materials as a part of a business community sidewalk, patio or other promotional sales event.
- (11) Community outdoor sales events and activities in association with a community event such as a 4th of July celebration, fair, rodeo, centennial and the like.
- (12) Garage, patio and yard sales on an individual or group basis, including community sponsored flea or farmers markets.
- (13) Outdoor sales or goods and materials authorized pursuant to Ch. 110.

(D) The outdoor storage, display, sale or rental of merchandise or services may be permitted where any the following conditions are met.

- (1) The outdoor storage, display, sale or rental of merchandise or services is permitted, approved or commonly identified as a accessory use or common component of a use permitted within a specific zoning designation.
- (2) The outdoor area in which the merchandise or service is stored, displayed, sold or rented is accessible only through a building entrance or other entrance to a business in a secured area of the business.

(3) The outdoor area is screened from a public street or adjacent property in a manner approved by the design review plan reviewing authority.

(4) Merchandise is only displayed on a daily basis during normal business hours and is stored inside a building during nonbusiness hours.

(E) The following additional requirements are applicable to certain types of outdoor merchandising.

(1) Newspaper vending machines. Newspaper vending machines, placed on a public sidewalk, shall be located so that the use of the sidewalk by handicapped persons is not impeded. This standard shall be met by maintaining a minimum, unobstructed sidewalk width of four feet.

(2) Nonprofit organization sales. The sale is authorized by the City Planning Official, Manager or other city official after finding all of the following.

(a) The sale has the approval of the owner or lessee of the property on which it is to take place.

(b) The sale will be located in a manner that will not interfere with pedestrian or vehicular traffic.

(c) The sale will not interfere with the operation of adjacent businesses.

(d) The sale is an annual or semi-annual event, or is planned as such, or is being held for a special fund raising purpose.

(e) The sale shall be for a specified period of time, and the duration of the sale shall not exceed three days.

(Ord. 1057, passed 3-24-98)

**§ 153.095 DENSITY FACTOR/LIEU OF MINIMUM LOT SIZE.**

(A) In the case of a development proposal such as a cluster or planned unit development found to be of public benefit in consideration of the factors that follow the design reviewing authority and/or Planning Commission may approve the utilization of an overall density factor in lieu of the applicable zone minimum lot size standards.

(B) For example, for a development in an R-3 Zone, the reviewing authority may waive the minimum lot size standard of 5,000 square feet for single family dwelling units for an equivalent overall net density factor calculated after deducting all areas required for streets, public utilities and other public or semi-public uses, provided all yard, setback, lot coverage, off-street parking and loading, public access and other requirements of the zone are met.

(C) Factors to consider in the approval of the density factor approval include, but are not limited to the following.

(1) Excellence in design and site utilization.

(2) Provision of a variety of housing or other use types.

(3) Maximization of cost-benefit ratios for purchasers and providers of public services and facilities.

(4) Preservation of significant natural, vegetative or other significant public benefitting features or resources.

(5) Inclusion of publicly available recreation, social, educational or other publicly beneficial uses and developments.

(6) Donation of land area for public purposes identified as a need in the area or in the community.

(7) Other factors beneficial to the general public, residents of the proposed development and the city as a whole.

(Ord. 1057, passed 3-24-98)

**§ 153.096 MANUFACTURED HOMES; MOBILE HOMES; RV'S.**

(A) Manufactured home placement. The provisions set forth by this subsection (A) govern the placement of manufactured homes in the city and the urban area thereof.

(1) Purpose. This subsection (A) is designed to comply with the provisions of O.R.S. Ch. 197.307 governing the placement of manufactured homes, as herein defined, within the city and the urban area thereof.

(2) General provisions.

(a) For the purposes of this subsection (A), R Zones are intended to be those Residential Zones set forth in this chapter designated as R-1, R-2, R-3 and R-4.

(b) Manufactured home parks are permitted within the R Zones set forth in this chapter as the same are permitted within the R Zones.

(c) In addition, manufactured home parks and subdivisions may be planned under the provisions of a planned unit development, which may be used to provide for individual ownership of manufactured homes and sites and common ownership and maintenance of other lands and facilities.

(d) Manufactured home subdivisions for Class A manufactured homes as herein defined are permitted as any other subdivision is permitted in the R-Zones when approved in compliance with the applicable provisions of this chapter.

(e) Manufactured home subdivisions for Class B manufactured homes as defined herein are only permitted as a type II conditional use in the R-2, R-3 and R-4 Zones in accordance with the applicable provisions of this chapter.

(f) Nothing in these provisions shall be interpreted as abrogating or superseding any recorded deed restriction or protective covenants.

(g) Except as specified otherwise by this subsection (A), the standards for subdividing and developing land for and within manufactured home parks and subdivisions shall be the same as for all other developments in accordance with the provisions of this chapter.

(h) Where standards for manufactured homes and developments therefor are established by state law or administrative rule, the requirements shall be in addition to the provisions of this subsection (A).

(i) The Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD Code), Title VI of the 1974 Housing and Community Development Act (42 USC 5401 et seq.) as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, and agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of the code by the Oregon Department of Commerce, all of which became effective for mobile and manufactured home construction on June 15, 1976, shall be utilized as the minimum construction standard of the city to which all manufactured

home placements shall comply except as may be exempted or otherwise provided for by this subsection (A).

(3) Definitions. For the purposes of this subsection (A) only, the definitions of terms used herein and not defined in this chapter shall be as defined in O.R.S. Ch. 446 or O.A.R. Ch. 814, Division 23 as such may be amended.

**MANUFACTURED HOME CLASSES.** For the purposes of these regulations, manufactured homes are divided into the following classes.

(1) A Class "A" manufactured home shall meet the following requirements.

a. Be double or multi-sectional, and enclose a living space of not less than 1,000 square feet.

b. Be placed on an excavated and back-filled foundation with concrete runners a minimum of 24 inches in width and six inches in depth, and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above average grade.

c. Have wheels, axles and hitch mechanisms removed.

d. Have utilities, public sewer and water connected in accordance with Oregon Department of Commerce requirements, manufacturer's specifications, and city standards.

e. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code.

f. Have a pitched roof with a minimum slope of 3/12 with eaves and trim on all sides.

g. Have exterior siding, trim and roofing materials that are similar in appearance and complementary to other homes in the same general area including the type, color and horizontal or vertical placement of materials.

h. Have a garage or carport constructed of like materials and color to the dwelling unit.

i. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss levels equivalent to the performance standards required of a single family conventional dwelling unit constructed under the state building code as defined in O.R.S. 455.010.

(2) A Class "B" manufactured home shall meet the following requirements:

a. Have more than 750 square feet of living space in a double or multi-sectional unit.

b. Be placed on a permanent foundation as required for a Class A unit.

c. Have wheels, axles and hitch mechanisms removed.

d. Have utilities, public sewer and water connected in accordance with Oregon Department of Commerce requirements, manufacturer's specifications and city standards.

e. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standard Code as of June 15, 1976.

f. Have a pitched roof with a minimum slope of 3/12 with eaves and trim on all sides.

g. Have exterior siding, trim and roofing materials that are similar in appearance and complementary to other homes in the same general area including the type, color and horizontal or vertical placement of materials.

h. Have a garage or carport constructed of like materials and color to the dwelling unit.

(4) Manufactured home placement standards. All manufactured homes placed within the city shall comply with the following.

(a) Designated areas for manufactured homes. As defined in division (3) of this subsection (A), each manufactured home shall be classified as Class A or B, and shall be permitted within the following areas.

1. Class A: Permitted as an outright use on individual lots as a single family dwelling in all R Zones, in manufactured home parks and subdivisions and as replacements to existing nonconforming manufactured or mobile homes.

2. Class B: Permitted in R-2, R-3 and R-4 Zones; also permitted as replacements to existing nonconforming manufactured homes provided the unit is found to be an improvement over current housing of or for the applicant.

(b) Foundations/skirting support systems.

1. All load bearing foundations, supports and enclosures shall be installed in conformance with the Oregon Department of Commerce regulations and with the manufacturer's installation specifications (Reference O.A.R. Ch. 814, Division 23).

2. All Class A and Class B manufactured homes outside of manufactured home parks shall be placed on an excavated and back-filled foundation with concrete runners a minimum of 24 inches in width and six inches in depth, and enclosed at the perimeter such that the manufactured dwelling is located not more than 12 inches above grade.

3. Class A and B manufactured homes inside of manufactured home parks must have enclosed perimeters as specified above or be installed with an approved foundation siding/skirting enclosing the entire perimeter of the home.

4. Foundation siding/skirting and back-up framing shall be weather-resistant, non-combustible or self-extinguishing materials which blend with the exterior siding of the home; below-grade level and for a minimum distance of six inches above finish grade, and the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with the manufacturer's recommendations or approved equal standards.

(c) Additions or accessory structures.

1. Except for a structure which conforms to the state definition of a mobile or manufactured home accessory structure, no other extension shall be attached to a manufactured home, except a garage or carport constructed to the Oregon State Structural Specialty Code.

2. Accessory structures include porches and steps, awnings, cabanas, carports or any other structure or addition that depends in part on the

residential trailer, mobile house or manufactured home unit for its structural support, or in any manner is immediately adjacent to or attached to the unit.

3. The structures and additions shall not total more than 30% of the total living space of the original unit and the structures or additions combined.

4. Roofing and siding materials shall be of similar material and color, and complementary to the original unit, and roofs shall have eaves and trim on all sides.

5. In no case shall any structures or additions to the units be constructed in a manner as to fully enclose the original unit, nor may any such unit be fully enclosed by additional walls or roof structures.

(d) Other standards or limitations.

1. Except for factory constructed components intended to be joined together to form a single manufactured home unit, no two or more manufactured home units may be joined together to form a single dwelling unit, nor may a manufactured home unit be joined together with a conventional constructed dwelling unit to form a single dwelling unit.

2. Manufactured home units shall not be joined or interconnected in any manner for utilization as multi family dwelling units.

3. All manufactured home lots and spaces shall be provided with sanitary sewer, electric and potable water with easements dedicated where necessary to provide the services. All such utilities shall be located underground unless waived by the city where underground services would require an exception to local prevalent conditions.

4. All pre-owned and pre-occupied units (that is, used) shall be inspected by a certified Building Official and by the City Planning Official prior to installation and occupancy to insure that the units are in a condition as to not be detrimental to the public health, safety and general welfare of the occupants or to the adjoining properties. The costs of the inspection shall be borne by the applicant. In lieu of an actual inspection of the units which are not readily available for the inspection, the applicant may submit current color photographs of the unit, both exterior and interior, and a certification by the current owner as to the condition of the unit.

5. No manufactured home shall be occupied for living purposes unless connected to local water, sewer and electrical systems.

6. No manufactured home shall be sited adjacent to any structure listed on the Register of Historic Landmarks except within a duly approved manufactured home park.

(5) Placement permits required.

(a) Requirements. Prior to the location, relocation or establishment of any manufactured home, the homeowner or authorized representative shall secure from the Building Official a placement permit and from the city a site plan permit which, in combination, state that the building and its location conform with this chapter. Each application for a placement permit and a site plan permit shall be accompanied by the following.

1. A plot plan as required for all dwelling units, but which at a minimum requires elevations or photographs of all sides of the manufactured



home, exterior dimensions, roof materials, foundation support system and enclosure design.

2. A copy of the manufacturer's approved instructions which will be used for installation purposes, where applicable.

3. Any other information as may be required by the Building Official, City Planning Director or other reviewing authority, for proper enforcement of this chapter.

4. An agreement signed by the homeowner or authorized representative stipulating to compliance with the terms set by the Building Official or the City Planning Director in the placement or site plan permit(s).

5. For a manufactured home park, these requirements may be consolidated with concurrence of the Building Official and the Planning Director for multiple placement in accordance with the approved park plan.

(b) Issuance of permit(s). After receipt of the information required for the placement and site plan permits, the Building Official and Planning Director shall review the respective permits for compliance with the standards set forth in this subsection. If the applicant has met all required standards, then the permits shall be issued.

(c) Additional action necessary. If, after receipt of the information required for either a placement or a site plan permit, the Building Official or the Planning Director finds that the applicant has not fully met the standards set forth in this subsection, and the changes or additional actions needed are deemed by the Building Official or Planning Director to be relatively minor and/or required to meet applicable codes, a conditional approval may be issued with the stated conditions which must be met prior to occupancy set forth and the reasons for change clearly stated in writing. If the applicant agrees in writing to the further conditions, approval is given and the applicant may proceed. If the applicant does not agree, then the application maybe denied with reasons stated in writing. An appeal of the denial may be submitted and processed in accordance with the applicable provisions relevant thereto.

(d) Suspension or revocation of permit. The Building Official or Planning Director may, in writing, suspend or revoke a placement or site plan permit issued under the provisions of this subsection whenever it is found that the permit has been issued in error or on the basis of incorrect information or upon the failure of the applicant to comply with minimum standards or conditions upon which the respective permit approval was issued.

(B) Mobile homes and RV's as temporary residences. A single-wide residential trailer or mobile house, or recreation vehicle may be authorized as a temporary residence on an individual lot if found to comply with the following conditions.

(1) The unit shall only be occupied by the owner of the lot on which the unit is located.

(2) The unit shall only be placed upon a lot and occupied by the owner for which a building permit for a conventional housing unit or a placement permit for a manufactured home meeting the standards of the applicable zone has been obtained.

(3) The unit shall only be occupied during a period in which satisfactory progress is being made towards the completion of the conventional housing

unit or placement of the manufactured home for which a permit has been obtained, and in no case shall the time period exceed 18 months involving a conventional dwelling or six months involving a manufactured home.

(4) The owner of the lot agrees in writing to remove the unit from the lot no later than the applicable time period set forth in division (3) of this subsection (B), or not later than one month following the completion of the unit or placement of the manufactured home, whichever occurs first.

(5) Electric, public sewer and water connections shall be made to the unit.

(6) The City Planning Official may review permits issued under this subsection (B) at any time and revoke the permits when found to not be in compliance, including evidence of unsatisfactory progress on construction or placement of the intended permanent housing unit.

(C) RVs: residential use. Recreational vehicles may not be occupied for residential purposes or other purposes on any lot in the city except as follows.

(1) As permitted as a temporary residence by § 153.096(B) above.

(2) In an approved recreational vehicle park or in an approved mobile or manufactured home park on spaces specifically approved for RV vehicle use.

(3) As a temporary residence by guests of the owner for a period not to exceed seven days out of any 30-day period, particularly during major local events such as rodeos, fairs, races, school and community events, adult and youth athletic events and similar events.

(D) Mobile homes and manufactured homes: temporary residence for care of relative.

(1) It is the intent of this temporary use permit to provide for the temporary placement and use of certain structures which, because of personal hardship and special needs, require and warrant special consideration for the special temporary use.

(2) No such use shall be approved unless there is a finding by the reviewing authority that there will not be any adverse impact on the welfare of adjacent properties and the community as a whole, nor a detriment to the overall intent of this chapter and the applicable zone designation.

(3) No temporary permit shall be granted which would have the effect of creating a permanent rezoning, nonconforming use or variance or when the use is not permitted to continue at the expiration of the permit period.

(4) As a temporary special use permit in every zone in which residential uses are permitted, the City Planning Official, as a type I conditional use permit, may approve one accessory mobile home dwelling unit in conjunction with a primary dwelling unit with the following findings and limitations.

(a) That the unit is necessary to give care for or provide custody of an elderly, handicapped or infirm relative who a medical doctor certifies is in need of this special kind of care or custody.

(b) The applicant and permit holder is the owner and resident of the primary dwelling and is the care provider for the infirm relative for which the special use permit is granted.

(c) That no additions to the mobile home unit shall be permitted, nor shall the unit be connected in any way, except for a covered walkway to the main dwelling unit.

(d) That all residential utilities and facilities deemed necessary can be and are provided.

(e) That all setback requirements of the applicable zone designation can be met.

(f) That the subject mobile home unit is not of a condition as to constitute a visual nuisance or be a safety hazard to the occupant thereof.

(5) A temporary special use permit granted under this subsection shall be null and void when the elderly, handicapped or infirm relative who is the subject of the permit moves to another residence or is absent from the residence for more than 120 days, or leaves the residence with no likelihood of returning. Exception to the 120-day limit may be approved because of extraordinary circumstances such as extended hospitalization, but in any case, the subject unit shall not be occupied by any other person(s) other than originally intended and approved for.

(6) Within 30 days of the permit becoming void or revoked, the unit shall be removed by the owner of the real property unless otherwise approved by the city.

(7) The city may review permits issued under this subsection at any time, and revocation thereof shall be effected upon a finding of noncompliance with the provisions of this subsection or with any other conditions set forth at the time of issuance of the permit.

(8) The permits shall be issued on a one-year basis and renewable on an annual basis without reapplication or additional fees provided compliance with the conditions applicable to the permit are maintained.

(9) A unit placed under a permit authorized by this subsection shall be located as close as possible to the primary dwelling, and unless there are physical limitations of the property, this should be within 100 feet.

(E) Manufactured homes and mobile houses limited to parks. All single-wide manufactured homes, mobile houses and residential trailers shall be limited to location within a duly approved mobile house or manufactured home park or as a temporary use authorized by this chapter or unless approved otherwise as a conditional use pursuant to the provisions of this chapter.

(Ord. 1057, passed 3-24-98)

**§ 153.097 LIVESTOCK.**

Domestic livestock shall be permitted as provided for by the respective zoning designations set forth in this chapter, but shall be subject to the following limitations.

(A) Except as provided otherwise in this section, cows, horses, sheep, llamas, goats or other similar type and scale of livestock cannot be kept on lots having an area of less than 20,000 square feet, except as otherwise provided for in this section. The total number of all such animals (other than their young under the age of six months) allowed on a lot shall be limited to the square footage of the lot divided by the total minimum area required for each adult animal as listed as follows.

- (1) Horses: 20,000 square feet.
- Cows: 20,000 square feet
- Llamas: 10,000 square feet

Sheep: 5,000 square feet  
Goats: 5,000 square feet  
Ostriches/emus: 10,000 square feet

(2) The number of adult chickens, fowl or other poultry or rabbits over the age of six months shall not exceed one for each 500 square feet of property. The number of young (under the age of six months) allowed on the property at any time shall not exceed three times the allowable number of adults.

(3) The number of colonies of bees allowed on a lot shall be limited to one colony for each 1,000, square feet of lot area.

(B) Animal runs or barns, chicken or fowl pens and colonies of bees shall be located on the rear half of the property but no closer than 50 feet from the front property line nor closer than 50 feet from any residence not owned by the owner of the subject livestock.

(C) Animals, chickens and/or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times. All animal or poultry food shall be stored in metal or other rodent-proof receptacles.

(D) No other livestock except for domestic dogs and cats are permitted, and stud horses and bulls are specifically prohibited except as otherwise approved by the city.

(E) Domestic livestock kept solely for the purpose of a youth livestock project such as 4-H or FFA may be exempted from the square footage requirements of this section provided that the following conditions are complied with.

(1) Evidence is provided to the City Planning Official that the youth is duly enrolled in a 4-H or FFA livestock project and an outline of the planned project, including animal types and numbers, is also provided.

(2) An acknowledgment of the project and an agreement or statement of no objections to permit the same is provided from all adjoining property owners.

(3) Failure to comply with the sanitation control and other requirements of this section may result in the cancellation of the exemption.

(Ord. 1057, passed 3-24-98)

#### **§ 153.098 SITE PLAN AND DESIGN REVIEW PROVISIONS.**

(A) Purpose.

(1) The purpose of the design review provisions of this chapter is to insure that development within the city complies with standards and limitations set forth within the applicable zoning, by other city standards and requirements and by applicable county, state and federal regulations. It is also the intent of these provisions that some level of review be exercised regarding the aesthetics of developments for the goal of maintaining the desirable character and living quality of the community or of specific areas within the community. The overall community character and living quality is defined by the following: keeping buildings in scale; honoring the beauty and ecology of the city's natural setting; and recognizing that historical and natural features are an integral part of the community's overall character.

(2) This broad purpose is furthered by the following specific purposes of design review.

(a) To implement the goals and policies of the Comprehensive Plan.

(b) To foster development that is designed, arranged and constructed in a manner that provides a safe, efficient and aesthetically pleasing community asset.

(c) To encourage originality and creativity in site design, architecture and landscape design.

(d) To ensure that the arrangement of all functions, uses and improvements of a development reflect the natural amenities, capabilities and limitations of its site and adjacent areas.

(e) To encourage development where the various structures, use areas and site elements are integrated in a manner that is visually harmonious within the development and the surrounding area.

(f) To encourage development and landscape design that complements the natural landscape and setting, improves the general appearance of the community and enhances specific elements of the manmade environment, both presently and historically.

(B) Applicability. The following uses and development shall be subject to the provisions of this section.

(1) All new construction or new development except for single family residences, manufactured dwellings, mobile homes, modular homes and their accessory structures unless provided otherwise in this chapter.

(2) An exterior alteration or modification to an existing nonresidential use, which has not previously been subject to design review and which is subject to regulation under the provisions of this chapter, except for painting, replacement of roofing and siding and other normal maintenance and upkeep requirements which are not subject to regulation under the provisions of this chapter or any other applicable city, county, state and/or federal regulations.

(3) Any alteration or modification of site improvements, such as the landscaping, parking and/or loading facilities and areas, in conjunction with an existing nonresidential use which has not previously been subject to design review and is subject to regulation under the provisions of this chapter.

(C) Design review authority. The authority for design review is set forth as follows.

(1) For those uses subject to design review and classified as outright or type I conditional uses, the City Planning Official and/or the City Manager, and the City Superintendents of Streets and Public Works, the City Fire Chief and the City Police Chief shall be responsible for the design review thereof. As deemed necessary, the county's Environmental Health Officer, as well as other agency and/or organizational representatives, may be requested to participate in the design review of specific use and/or development proposals.

(2) The City Planning Commission shall be responsible for the design review of all uses classified as type II conditional uses.

(D) Design review plan approval required. Design review plan approval, as specified by this section, shall be required prior to the following.

(1) Site clearance activities such as grading, excavation or filling for any use or development requiring a permit pursuant to this chapter.

(2) The issuance of a building or development permit for any use or development requiring city approval pursuant to this chapter.

(E) Design review procedure. The following procedure shall be used in reviewing design review plans.

(1) Pre-application conference. Prior to applying for design review plan approval, applicants should and may meet with the city Planning Official and Superintendents of Streets and Public Works, or designees thereof, and present a preliminary plan which shall contain, in an approximate manner, the information required on a design review plan application.

(a) The purpose of the preliminary site plan review is to enable the applicant to obtain advice from the city as to the intent, standards, criteria and provisions of this section, this chapter, other city ordinances, standards and regulations, and state and federal rules and regulations which may be pertinent to the proposal.

(b) Information presented for preliminary discussion shall be considered confidential if so requested by the applicant.

(2) Consolidation of land use actions. Where a proposed use or development requires a variance, setback reduction, conditional use, partitioning, subdivision or other action which requires site plan or Planning Commission approval, the design review and applicable land use action by the respective reviewing authority may be combined into a single process.

(3) Application. A property owner or authorized representative thereof may initiate a request for design review plan approval by filing an application with the city using forms prescribed by the city together with the required filing fee. In addition to the application form, the applicant shall submit that which is listed below.

(a) Requirements for information submitted. Information provided on the design review plan shall conform to the following.

1. Drawings depicting the proposal shall be presented on sheets not larger than 24 inches by 36 inches in the number of copies directed by the city, but in no case less than five nor more than ten.

2. To facilitate public reviews and notice, at least one copy of the proposal shall be provided on a sheet of paper not larger than 11 inches by 17 inches.

3. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned.

4. The city may require that the drawing, development plan or other information be provided to the city on computer disk in a format adaptable to the city's computer systems.

(b) Site analysis diagram. If required by the reviewing authority, this element of the design review plan, which may be in schematic or free hand form to scale, shall indicate the following site characteristics.

1. Location and species of existing trees greater than six inches in diameter when measured four feet above the natural grade, and an indication of which trees are proposed to be removed.

2. On sites that contain steep slopes, potential geological hazard or unique natural features that may affect the proposed development, the city may require contours mapped at two-foot intervals.

3. Natural drainage ways, depths of any ground water tables less than 12 feet, any areas of surface water accumulations and any other significant natural features.

4. All buildings, roads, retaining walls, curb cuts and other manmade features, both existing and proposed.

5. Natural features, including trees, riparian habitat and stream channels and structures on-site or on adjoining properties that have or may have a visual or other significant relationship with the site and the proposed development thereon.

(c) Site photographs. Photographs depicting the site and its relationship to adjoining sites and the general area are extremely valuable, should be provided, and may be required by the reviewing authority.

(d) Site development plan. This element of the design review plan shall indicate the following.

1. Legal description of the property.  
2. Boundary dimensions and site area.  
3. Location of all existing and proposed structures, including distances from the property lines.

4. Area of the site to be covered by structures, existing and proposed, and the percentage of site coverage thereby.

5. All external dimensions of existing and proposed buildings and structures.

6. Location of building entrances and exits.  
7. Parking and circulation areas, including their dimensions.

8. Service areas, for such uses as the loading and delivery of goods.

9. Locations, descriptions and dimensions of easements as may be applicable.

10. Grading and plans, including spot elevations and contours at intervals close enough to convey their meaning.

11. Location of areas to be landscaped.  
12. Outdoor recreation and/or play areas.  
13. Pedestrian and bicycle circulation.  
14. Location of mechanical equipment not enclosed within a building, garbage disposal areas, utility appurtenances and similar structures.

15. Exterior lighting.  
16. Location, size and method of illumination of signs.

17. Provisions for handicapped persons.  
18. Other site elements which will assist in the

evaluation of site development.

19. Location, names, surface and right-of-way widths and improvement standards of all existing and proposed streets within or adjacent to the proposed development.

(e) Accompanying written summary. In addition to the foregoing site development plan requirements, a written summary of the proposal should

be provided and may be required showing the following, (unless such is shown on the site development plan).

1. Commercial and nonresidential development. For commercial and nonresidential development:

a. The square footage contained in the site area to be developed.

b. The percentage of the area to be covered by structures when developed.

c. The percentage of the area to be covered by parking areas and the total number of parking spaces.

d. The total square footage of all landscaped areas, including the percentage consisting of natural materials and the percentage of hard surfaced areas such as courtyards.

2. Residential development. For residential development:

a. The total square footage of the lot or parcel and in the structures in the development.

b. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, for example, ten one-bedroom, 25 two-bedroom and the like).

c. Percentage of lot coverage by structures, parking/driveway areas, recreation areas and landscaping.

(f) Landscape plan. If required by the reviewing authority, a landscape plan shall be submitted and shall indicate the following.

1. The size, species and locations of plant materials to be retained or placed on site.

2. The layout of irrigation facilities.

3. Location and design details of walkways, plazas, courtyards and similar areas.

4. Location, type and intensity of outdoor lighting.

5. Location and design details of proposed fencing, retaining walls and trash collection areas.

(g) Architectural drawings. This element of the design review plan, if required by the reviewing authority, shall indicate the following.

1. A plan specifying the building footprint and dimensions, including all points of access. Floor plans of interior spaces to the extent required to clarify access functions and the relationship of the spaces to decks, porches, balconies and stairs or other features shown on the building elevations. The floor plans shall be provided for all building floors and shall include appropriate dimensions.

2. Exterior elevations showing building heights, windows, doors, exterior light fixtures, stairways, balconies, decks and other architectural details. These elevations shall be provided for every exterior wall surface, including those which are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevations of floors indicated and a dimension showing compliance with height limitations.



3. As may be required, particularly in the A Zones relative to reflective materials and safety hazards related thereto, the color and texture of finish materials should be described on the drawings; samples of the materials and color ranges of siding, roofing and trim may be required or may be submitted in lieu of material descriptions.

4. Location and type of exterior light fixtures, including the lamp types and the levels of illumination that they provide.

5. Location, size and method of illumination of all exterior signs.

(h) Property survey. A survey of the property by a licensed land surveyor may be required, and if required the survey shall clearly delineate property boundaries, and show the location of the corners of proposed buildings and other significant features proposed for the site. The requirement for a survey of the exterior boundaries of a site may be waived where it is found that there is a recent survey that can be used to clearly establish the applicant's property boundaries.

(4) Complete application. Upon receipt of an application for design review, the city shall review the application to ensure that it is complete. If the application is found to be incomplete, the applicant shall be provided with a description of the items required to complete it. The city shall not begin processing the application until found to be complete.

(5) Investigation and reports. As applicable, the City Planning Official, or a designee thereof, shall prepare a report to the applicable review authority on the conformance of the application with the pertinent zoning requirements. The report shall be available to the applicant at no cost and to the public, at a reasonable cost, seven days prior to the date set for the public hearing or review authority review.

(6) Design review procedures.

(a) When such is required, notice of a public hearing on the proposal shall be in accordance with the applicable provisions of this chapter.

(b) The date of the public hearing shall be in conformance with the applicable provisions of this chapter.

(c) The reviewing authority shall review the design review plan in accordance with the applicable provisions of this chapter.

(d) The reviewing authority's decision shall be in accordance with the applicable provisions of this chapter.

(e) Notification of the reviewing authority's decision shall be in accordance with the applicable provisions of this chapter.

(f) The decision of the reviewing authority may be appealed as provided for in this chapter.

(7) Reconsiderations upon denial. The applicant may request reconsideration of a final decision on a design review plan application by filing a new or revised application, including the applicable filing fee. The new or revised application shall incorporate design modifications which address issues and deficiencies which formed the basis for the original plan denial.

(8) Revision and reconsideration of design review plans. If the changes deemed necessary for a design review plan to be approved as in compliance with applicable standards and limitations are considered minor (that is, includes primarily

dimensional changes in setbacks, points of access, the siting of the proposed structure, changes in building heights or areas, landscaping, site improvements and the like), the reviewing authority may notify the applicant of the required changes, and if the design review application is modified to comply with the changes and resubmitted within a period of 30 days or less, the subject design review application may be reconsidered without the filing of a new application and a new filing fee, however, the applicant shall be responsible for any additional costs incurred for any additional public notice requirements. If the resubmitted design review application does not comply with those changes deemed necessary for approval, then any further modification and resubmittal shall be in accordance with division (E)(7) of this section.

(F) Design review criteria. To ensure that the stated purposes of the design review process are met the reviewing authority shall be governed by the criteria of this division (F) as they evaluate and render a decision on a proposal.

(1) Statement of intent.

(a) The design review criteria are intended to provide a frame of reference for the applicant in the development of a site, building and landscape plans, as well as providing the city with a means of reviewing proposed plans.

(b) These criteria are not intended to be inflexible requirements, nor are they intended to discourage creativity. The specification of one or more architectural styles is not intended by these criteria.

(c) The reviewing authority is not authorized as a part of the design review process to approve projects which exceed specific development standards set forth by the applicable zone unless the exceptions are approved in accordance with specific variance or other provisions set forth in this chapter.

(2) Site design evaluation criteria. The following criteria shall be used in evaluating site development plans. The number adjacent to the criteria represents the relative importance of the criterion, with three being the most important.

x3 (a) The arrangement of all functions, uses and improvements has been designed so as to reflect and harmonize with the natural characteristics and limitations of the site and adjacent sites.

x3 (b) In terms of setback from streets or sidewalks, the design creates a visually interesting and compatible relationship between the proposed structures and/or adjacent structures.

x3 (c) The design incorporates existing features, such as streams, rocks, slopes, vegetation and the like, (for example, making use of a small stream rather than placing it in a culvert).

x2 (d) Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining landscape/open space in order to create a pedestrian/bike pathway and/or open system that connects several properties or uses.

x2 (e) The arrangement of the improvements on the site do not unreasonably degrade the scenic values of the community and the surrounding area in particular.

x2 (f) Where appropriate, the design includes a parking and circulation system that encourages a pedestrian and/or bicycle rather than vehicular orientation, including a separate service area for delivery of goods.

(g) The design gives attention to the placement of storage, mechanical equipment, utilities or waste collection facilities so as to screen such from view, both from within and from outside the site.

(3) Landscape design evaluation criteria. The following criteria shall be used in evaluating landscape plans.

x3 (a) The overall design substantially complements the natural environment of the city and the character of the site and the surrounding area.

x3 (b) The design acknowledges the growing conditions for this climatic zone, and the unique requirements that its specific site location makes upon plant selection.

x3 (c) Provision has been made for the survival and continuous maintenance of the landscape and its vegetation.

x3 (d) The design contributes to the stabilization of slopes and the protection of other natural features and resources where applicable.

x2 (e) The design successfully delineates and separates use areas, where it is desirable to do so.

(G) Revision of plans. Construction documents (that is, plans, drawings and specifications) shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review needed and/or proposed modifications. The reviewing authority that originally approved the plans shall review the proposed modifications to determine whether they constitute a major or minor revision of the approved plans.

(1) Major modifications.

(a) Major modifications are those which result in a significant change in the initial plans. The following are examples of major modifications: changes in the siting of a building; modification of areas to be landscaped; and modifications to a plan element that was the subject of a design reviewing authority condition of approval.

(b) If the reviewing authority determines that the proposed change is a major modification, the proposed alteration shall be reviewed and processed in the same manner as the original application and as a new application, however the fee shall only be 50% of the original application fee.

(2) Minor modifications.

(a) Minor modifications are those which result in an insignificant change in the initial plans. Examples are: limited dimensional or locational changes to building elements such as windows or doors; changes in building materials where only a limited area is affected; and substitution of landscape materials which do not affect the overall landscape design.

(b) If the city determines that the proposed change is a minor modification, the reviewing authority may proceed with the review of the plans; however, if the reviewing authority is different than the original reviewing authority, the original reviewing authority shall be notified of the proposed change and given an opportunity to comment relative thereto prior to final approval of such change.

(H) Performance assurance.

(1) Landscaping and other site improvements required pursuant to an approved design review plan shall be installed prior to the issuance of a certificate of occupancy or final inspection, unless the property-owner and/or applicant submits a performance assurance device that is approved by the city committing the installation of landscaping and other site improvements within one year.

(2) In no case shall the performance be delayed beyond the one-year period for more than six months unless approved otherwise by the City Council. Acceptable performance assurances shall be in compliance with the provisions of this chapter or as otherwise approved by the City Council or a designee thereof.

(I) Final approval expiration. Unless otherwise approved in the initial approval by the reviewing authority, and agreed to by the City Council regarding performance assurance and/or other public or private improvements governed thereby, final approval of a design review plan shall be null and void after one year from the date of final approval unless a building permit has been obtained and construction and/or site improvements have commenced. No extensions to the time periods shall be approved unless the applicant posts a performance assurance as required by this chapter for all affected plan/development elements and such is approved by the City Council or a designee thereof.

(Ord. 1057, passed 3-24-98)

**§ 153.099 COMPLIANCE WITH STATE/FEDERAL RULES.**

(A) Approval of any use or development proposal pursuant to the provisions of this chapter shall require compliance with and consideration of all applicable state and federal agency rules and regulations.

(B) The compliance shall be evident prior to the final approval of any affected land use or development proposal; for example, the compliance may be set forth as a condition of final approval.

(C) Specific state and federal rules and regulations that may affect a specific land use or development for which compliance therewith is required if applicable include, but are not necessarily limited to the following.

(1) Air quality standards administered by the State Department of Environmental Quality (DEQ) and/or the Federal Environmental Protection Agency (EPA).

(2) Noise pollution standards administered by DEQ and/or EPA.

(3) Water quality standards administered by DEQ, state Water Resources Department (WRD) and/or EPA.

(4) Sewage disposal regulations administered by DEQ, County Environmental Health and/or EPA.

(5) Solid waste disposal regulations administered by DEQ and/or EPA, including those applicable to hazardous wastes.

(6) Uniform Building Code administered by the City-County Building Department and State Building Codes Agency.

(7) Surface and ground water withdrawals regulated by WRD.

(8) Scenic area rules administered by the State Highway Division (OSHD), state parks and/or other state or federal agencies.

(9) Access control and management regulations administered by OSHD and/or the County Road Department.

(10) Surface mining regulations administered by the State Department of Geology and Mineral Industries (DOGAMI), DEQ and other state or federal agencies.

(11) Wild and scenic river regulations administered by the State Parks and Recreation Department (OPRD), the U.S. Bureau of Land Management (BLM) or other state and federal agencies.

(12) Cut and fill, and wetland regulations administered by the Division of State Lands (DSL).

(13) Fish and wildlife habitat protection rules administered by the State Department of Fish and Wildlife (ODFW) and/or the U.S. Fish and Wildlife Department (USFW) .

(Ord. 1057, passed 3-24-98)

#### **§ 153.100 ENGINEERING/SPECIAL SERVICES FOR REVIEW.**

In regards to any development proposal for which the city deems it necessary or advisable to contract for engineering and/or other special technical services for the review thereof or for the design of facility expansions to serve the development, the developer may be required to pay all or part of the special services. In such cases, the choice of contact service provider shall be at the discretion of the city, the direction of the city, the costs thereof shall be determined reasonable and an estimate of the costs shall be provided to the developer prior to contracting therefor.

(Ord. 1057, passed 3-24-98)

#### **EXCEPTIONS AND NONCONFORMING USES**

##### **§ 153.115 NONCONFORMING USES.**

(A) For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**NONCONFORMING USE.** A lawful existing use or structure at the time this chapter or any amendments hereto become effective which does not conform to the requirements of the zone in which it is located or to any other specific requirements of this chapter applicable thereto.

(B) The lawful use of any building, structure or land in existence at the time of enactment or amendment of this chapter may be continued. Alteration of any such a use may be permitted as a type II conditional use type permit application if found to be reasonably necessary to continue the use and if found to be no more detrimental than the present use, or if necessary to comply with any lawful requirement mandated by local, state or federal regulation for continuation of the subject use. A change of ownership or occupancy shall also be permitted.

(C) The extension of a nonconforming use to a portion of a lot or structure which was arranged or designed for the nonconforming use at the time of the effective date of this chapter 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 chapter.

(D) Restoration or replacement of a nonconforming use may be permitted when the restoration or replacement is made necessary by fire, other casualty or natural disaster, or to meet health and building standards. Such restoration or replacement shall

be commenced within one year from the occurrence of fire, casualty or natural disaster, and shall be completed within not more than 18 months from the date of commencement. In the case of the restoration or replacement because of health or building standard deficiencies, such shall be completed within not more than 12 months from the date of notification of the deficiencies.

(E) If a nonconforming use is destroyed by any such cause to an extent exceeding 80% of its fair market value as indicated by the records of the County Assessor, and is not returned to use and in actual operating condition within 18 months from the date of destruction, a future structure or use shall conform to this chapter. An extension to such time period may only be granted where beyond his control, such as an insurance claim settlement, have effectively prohibited reconstruction within the 18-month period. An application for the time extension shall be processed in the same manner as an application for a major variance as set forth by this chapter, and the filing fee shall be one-half of the fee for such an application.

(F) A nonconforming use may not be resumed after a period of interruption or abandonment of more than one year unless the resumed use conforms with the requirements of this chapter unless otherwise approved by the Planning Commission for certain types of uses which are commonly inactive for periods exceeding one year. In no case, however, shall the period of inactivity exceed two years in any three-year period.

(G) Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been issued and construction has commenced prior to the adoption of this chapter provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit was issued.

(H) Nothing contained in this chapter shall require any change in the plans for any use or development for which a land use permit had been granted prior to the effective date of this chapter, provided the building permit(s) therefor are obtained within the assigned time limits of the permit approval and construction is commenced within six months of the issuance of the building permit(s).

(I) If a nonconforming use is replaced by another use, the new use shall conform to the applicable provisions of this chapter.

(J) If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this chapter, except as otherwise approved by the city.

(Ord. 1057, passed 3-24-98)

#### **§ 153.116 EXCEPTIONS TO LOT SIZE REQUIREMENTS.**

The following exceptions to minimum lot size requirements shall apply.

(A) (1) If, at the time of enactment of this chapter, a lot or aggregate of contiguous lots or parcels held in a single ownership has an area or dimensions which do not meet the lot size or dimensional requirements of the applicable zone, the lot or aggregate holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone; providing however, if there is an area deficiency, residential use shall be limited to single family dwelling unit or to the number of dwelling units consistent with the equivalent densities of the zone.

(2) Any parcel of land or portion thereof which is to be dedicated to a public, semi-public or public utility for a park, school, road, canal, railroad, utility or

other public use shall be exempt from the minimum lot size requirements of this chapter and the applicable zone.

(B) In any zone, the stated minimum lot area for residential purposes may be abolished by ruling of the Planning Commission, provided that it is replaced by a maximum gross density of equal restrictiveness. For example, given an undeveloped five acre parcel in a residential zone, whether or not subdivided or under one ownership, the Planning Commission may rule on a request that, instead of five houses on one-acre lots, there may be a cluster of five houses and the remainder of the five acres shall be kept undeveloped and shall not be redivided for sale or building development.

(Ord. 1057, passed 3-24-98)

#### **§ 153.117 NONCONFORMING LOTS OF RECORD.**

Any lot which is smaller than the minimum area required in any zone may be occupied by an allowed use in that zone, provided the following.

(A) The lot was a lot in a duly platted and recorded subdivision on or before the effective date of this chapter, or was a parcel created by an approved land partitioning prior to the date.

(B) The use conforms to all other requirements of that zone.

(C) If there is an area deficiency, residential use shall be limited to a single dwelling unit.

(D) Sewer and water services are approved and will be provided.

(Ord. 1057, passed 3-24-98)

#### **§ 153.118 EXCEPTIONS TO YARD-SETBACK REQUIREMENTS.**

The following exceptions to yard or setback requirements are authorized for a lot or use in any zone.

(A) If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards less than the required front yard for the applicable 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.

(B) If there is a building on only one abutting lot within 100 feet with a front yard less than the required front yard for the zone, the front yard of the subject lot need not exceed a depth one-half way between the depth of the yard on the abutting lot and the required front yard of the applicable zone.

(C) Architectural features such as cornices, eaves, sunshades, gutters, chimneys and flues may project into a required yard two feet, provided that the projection is not closer than three feet to a property line. Also, steps, terraces, platforms, patios, decks and porches having no roof covering, and fences not interfering with vision clearance requirements may be permitted in required yards, except as otherwise limited or provided for by this chapter, or as otherwise approved by the city.

(D) The yard between a canopy and any lot line shall be a minimum of five feet, provided that the eave line of the roof thereof is not closer than two feet to a property line, except that a smaller setback may be permitted if specifically allowed in a given zone. This exception to required yards for a canopy shall immediately be null and void should a canopy be proposed for enclosure with walls.

(Ord. 1057, passed 3-24-98)

#### **§ 153.119 EXCEPTIONS TO BUILDING HEIGHTS.**

(A) The following types of structures or structural parts are not subject to the building height limitations of this chapter: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling, towers, water towers, elevator shafts, windmills, conveyors and other similar projections.

(B) The exceptions to building height limitations set forth herein are not applicable to any such structures or structural parts that are located within an Airport Approach (AA) Overlay Zone.

(Ord. 1057, passed 3-24-98)

**§ 153.120 ZONE BOUNDARIES.**

If a zone boundary as shown on the Zoning Map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary.

(Ord. 1057, passed 3-24-98)

**§ 153.121 EXCEPTION, MINOR REPAIR/REHABILITATION.**

Excepting nonconforming uses, activities involving rehabilitation, replacement, minor betterment, repairs and maintenance, improvements and other similar construction activities involving a lawful use permitted within a specific zone are exempt from the permit requirements of this chapter unless specifically regulated herein and provided the activities do not change the use or expand the capacity of use level.

(Ord. 1057, passed 3-24-98)

**§ 153.122 EXCEPTION, PUBLIC STREET/HIGHWAY IMPROVEMENT.**

Excepting for those activities specifically regulated by this chapter the following public streets and highway improvement activities are permitted outright in all zones and are exempt from the permit requirements of this chapter.

(A) Installation of additional and/or passing lanes, including pedestrian and/or bikeways, within a street or highway right-of-way existing as of the effective date of this chapter, unless such adversely impacts on-street parking capacities and patterns.

(B) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, and/or no new land parcels result.

(C) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(D) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within a right-of-way existing as of the effective date of this chapter and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways provided such is not located within a duly designated Residential Zone, or adjacent to or across the street from a lot or parcel within such a zone, or in an Open Space-Park Reserve Zone or a Significant Resource Combining Zone.

(E) The construction, reconstruction or modification of a public street or highway that is identified as a priority project in a transportation system plan (TSP) or the



State Transportation Improvement Plan (STIP) that was duly adopted on or before the effective date of this chapter.

(Ord. 1057, passed 3-24-98)

**§ 153.123 EXCEPTION, PUBLIC FACILITIES IMPROVEMENT.**

Minor betterment, improvements, replacement or reconstruction of existing public facilities such as sewer and water lines, storm water drainage facilities, sidewalks and other pedestrian ways or facilities, bikeways and similar public facilities within rights-of-ways and easements for the purposes existing on or before the effective date of this chapter, or on contiguous publicly-owned property designated, intended or utilized to support the facilities, or the facilities that are set forth within an adopted public facilities plan or other capital improvement plan duly adopted on or before the effective date of this chapter, are exempt from the permit requirements of this chapter unless specifically set forth otherwise.

(Ord. 1057, passed 3-24-98)

**CONDITIONAL USES**

**§ 153.135 AUTHORIZATION TO GRANT OR DENY.**

Uses designated in this chapter as conditional uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this chapter. In the case of a use existing prior to the effective date of this chapter, a change in use, enlargement or alteration of such use shall conform with the provisions of a conditional use if so classified. An application for a conditional use may be approved, modified, approved with conditions or denied by the designated review authority.

(Ord. 1057, passed 3-24-98)

**§ 153.136 GENERAL CRITERIA.**

In determining whether or not a conditional use proposal shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval.

(A) The proposal is compatible with the City Comprehensive Plan and applicable policies set forth thereby.

(B) The proposal is in compliance with the requirements set forth by the applicable primary zone, by any applicable combining or overlay zone, and other provisions set forth by this chapter that are determined applicable to the subject use.

(C) That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of the approval or permit compliance is established or can be assured prior to final approval.

(D) The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in the applicable zone, this section and this chapter.

(E) That no approval be granted for any use which is or expected to be found to exceed resource or public facility carrying capacities.

(F) For any use which is found to require compliance with air, water, land, solid waste and/or noise pollution standards, that the compliance be a condition of approval and compliance therewith shall be a continuing condition.

(G) As applicable, a city business license shall be required, and if a requirement, the continual maintenance of the license shall be a continuing condition of

approval and failure to maintain the compliance shall constitute grounds for permit revocation.

(Ord. 1057, passed 3-24-98)

**§ 153.137 GENERAL CONDITIONS.**

In addition to the standards and conditions set forth in a specific zone, this subchapter, this chapter and other applicable local, county, state and/or federal regulations, additional conditions may be imposed which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the city as a whole, and to otherwise protect the general welfare and interests of the surrounding area, the city as a whole and the general public. The conditions may include, but are not limited to, the following.

(A) Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.

(B) Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.

(C) Limiting the height, size or location of a building or other structure or use.

(D) Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.

(E) Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.

(F) Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.

(G) Requiring diking, screening, fencing or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.

(H) Protecting and preserving existing trees, other vegetation and water, scenic, historic, archaeological, unique, landmark or other natural or manmade significant resources.

(Ord. 1057, passed 3-24-98)

**§ 153.138 PERMIT AND IMPROVEMENTS ASSURANCE.**

An application for a conditional use may be required to furnish the city with a performance bond or other form of assurance in an amount equal to the estimated value of required improvements and other aspects of a proposed use as deemed necessary to guarantee development in compliance with the standards and conditions set forth in the approval of a conditional use.

(Ord. 1057, passed 3-24-98)

**§ 153.139 APPLICATION FOR CONDITIONAL USE.**

A property owner or duly authorized agent may initiate a request for conditional use or the modification of an existing conditional use by filing an application with the city using forms prescribed therefor by the city. The standard application form shall be completed in its entirety and shall be accompanied by a site plan, drawn to scale, and showing the dimensions, arrangement and intended use of the proposed development. The application shall also be accompanied by a vicinity map showing the subject

property, all properties within 100 feet and the names and addresses of all property owners within 100 feet as reported by the current County Assessor's records. If an application is submitted by any person or persons other than the property owner or authorized agent thereof, the application shall be jointly signed by the owner or agent, or there shall be submitted an accompanying certified statement from the owner or agent attesting to the knowledge and approval of the submittal. An application shall not be deemed complete unless accompanied by the required filing fee established by the City Council by ordinance or resolution.

(Ord. 1057, passed 3-24-98)

**§ 153.140 PERMIT PROCESSING: TYPE I AND II.**

Conditional uses set forth by this chapter may be classified as either a type I or II conditional use. If the classification is not set forth, all such uses shall be processed in accordance with the type II processing requirements set forth hereinafter.

(A) Type I conditional use. The City Planning Official and/or City Manager, and/or Site Plan Review Board shall, within five working days of the receipt of a completed application for a type I conditional use provide individual written notice of the application to the owners of property within 100 feet of the exterior boundaries of the subject property, excluding public streets and ways, other identifiable potentially affected persons or parties including agencies, special districts, City and/or County Planning Commission and any persons or parties specifically requesting the notice. The notice shall provide for a minimum of ten days for all such persons, parties, agencies, districts and owners to respond relative to the subject proposal. If no objection is received within the response period the Planning Official and/or Manager may take action on the subject proposal for approval, approval with amendments, modifications and/or conditions for denial or may refer the subject application to the Planning Commission for public hearing. If one or more objections are received within the response period, the subject application shall be referred to the Commission for public hearing.

(B) Type II conditional use. An application for a type II conditional use shall be subject to review by the Planning Commission in accordance with the public hearing requirements of § 153.141.

(Ord. 1057, passed 3-24-98)

Statutory reference:

Application for permit or zone change, see

O.R.S. 227.175

**§ 153.141 PUBLIC HEARING REQUIREMENTS.**

Before the Planning Commission may act on any request for a conditional use subject to review thereby, the Commission shall conduct a public hearing in the matter thereof. The hearing shall be held within 45 days after an application for a type II use has been received and deemed complete, or within 60 days after an application for a type I use has been received and deemed complete. Notice of the hearings shall be given in the following manner:

(A) Notice of the hearing shall be published in a newspaper of general circulation in the city not less than 10 days prior to the date of the hearing.

(B) Not less than 21 days prior to the date of the hearing, individual notices shall be mailed or otherwise delivered to all property owners within a minimum of 100 feet of the exterior boundaries of the subject property, excluding public streets and ways,

to other identifiable affected persons or parties, and to the persons or parties specifically requesting the notice. Failure of any person or party to receive the notice shall not invalidate the proceedings in connection with an application.

(Ord. 1057, passed 3-24-98)

**§ 153.142 NOTIFICATION OF ACTION.**

Within ten days after a decision has been rendered on an application for a conditional use, the City Planning Official, and/or Secretary of the Planning Commission, shall provide the applicant, the property owner if different than the applicant, persons or parties participating in the proceedings leading up to the decision and those specifically requesting the information, with written notice of the decision, and those specifically requesting the information with written notice of the decision taken on the subject request. The notice shall clearly set forth the procedures and conditions for appeal of the decision.

(Ord. 1057, passed 3-24-98)

Statutory reference:

Statement of reasons for approval or denial, see

O.R.S. 227.173

**§ 153.143 STANDARDS, SPECIFIC CONDITIONAL USES.**

A conditional use shall comply with the standards of the zone in which it is located, with the specific standards that may be applicable thereto as set forth by this section, with any additional standards and conditions that may be set forth by the reviewing authority and with any other applicable local, state and/or federal regulations.

**(A) Adult foster home, residential care facility or residential home.** When permitted as a conditional use, the facilities shall be subject to the following conditions and limitations:

- (1) A provider must live in the home that is to be used for the purpose and must be certified for the intended care, or must hire a certified resident care manager whom shall reside in the subject home.
- (2) There shall be adequate sleeping accommodations for all occupants and resident staff.
- (3) The resident structure shall be inspected by the City Fire Chief and a certified Building Official and determined to be reasonably safe from fire and other safety hazards. The cost of the inspection(s), as applicable, shall be borne by the applicant.
- (4) As may be recommended by the officials in the foregoing inspection, appropriate fire alarms shall be installed and an approved fire exit plan established. Not less than two exits from the structure shall be readily available to all occupants.
- (5) Appropriate handicapped facilities and access shall be provided and/or installed as recommended by the appropriate local, county or state officials.
- (6) Off-street parking shall be provided for all needs generated by the proposed use unless approved otherwise by the city.
- (7) Annual inspections of the facilities shall be made by the appropriate state agency, and a report of the inspections shall be provided to the city within 10 days of the receipt thereof by the applicant.

(8) As applicable, state licensing requirements shall be complied with on a continuing basis; failure of the compliance shall be a violation of this chapter and constitute sufficient grounds for permit revocation.

(B) **Automobile wrecking yard or junk yard.** In considering an application for an automobile wrecking yard or junk yard, the following factors, conditions and limitations shall be applicable:

(1) No such facility shall be permitted within 500 feet of the right-of-way of a state highway or other arterial or major collector unless hidden or adequately screened by terrain or other natural objects, or by plantings, fences or other appropriate means so as not to be visible from the main traveled way of the right-of-way.

(2) As applicable, applicant has been issued a wrecker certificate from the Department of Motor Vehicles or that the certificate of issuance be a condition of final approval, and that continued possession and compliance therewith be a condition of approval.

(3) A building and/or enclosure or other barrier at least six feet in height shall be constructed and maintained, and that the subject use shall be contained totally within the building and/or enclosure.

(4) Premises on the outside of the establishment shall be maintained in a clear and clean condition at all times.

(5) No activity involving any wrecking, dismantling or altering of vehicles shall be permitted outside the building, enclosure or barrier at any time.

(6) In an industrial or commercial zone, the display and offer for sale of vehicle parts or vehicles outside the building, enclosure or barrier may be permitted, but shall be limited to a single defined area comprising not more than 5% of the total area of the business and to not more than eight vehicles at any one time.

(7) In any zone except an industrial or commercial zone, the outside display shall be limited to 5% of the total area and not more than four vehicles.

(8) Special consideration shall be given to the following factors, and additional setbacks, screening and other conditions and limitations may be established relative thereto.

(a) Extent of development of surrounding property as a residential area.

(b) Proximity of churches, schools, hospitals, public buildings or other places of public assembly or gatherings, particularly recreational facilities.

(c) The health, safety and general welfare of the city and the public.

(C) **Bed and breakfast facility.** In the review and approval of such a facility, the following conditions and limitations shall apply. (O.A.R. 333-170)

(1) Compliance with applicable state regulations shall be established or assured, and continued compliance therewith shall be a condition of approval.

(2) Subject facility shall be inspected by the City Fire Chief and a certified Building Official relative to structural and fire safety conditions and hazards. A report and recommendation therefrom shall be received and considered prior to final action on a proposed facility. The costs of the inspection, as applicable, shall be borne by the applicant.

(3) No exterior structural alterations except those necessary to install handicap access facilities shall be allowed to accommodate the proposed use unless approved otherwise by the reviewing authority.

(4) The owner and/or manager of the facility shall reside on the premises.

(5) All parking demands shall be accommodated totally off-street on the premises, except as approved otherwise by the reviewing authority.

(6) Total occupancy load shall be limited to the number of available private bedroom facilities, but in no case shall the number of rental units exceed six.

(7) As may be applicable, annual inspection shall be made of the subject facility by the appropriate local, county or state official(s) and a copy of the annual inspection report shall be provided to the city within ten days of the receipt thereof; the costs of the inspection shall be borne by the applicant/owner if applicable.

(8) As applicable, state licensing requirements shall be complied with on a continuing basis, and failure to comply therewith shall constitute grounds for permit revocation.

(9) As applicable, a city business license shall be required.

(D) **Dog pounds or kennels.** The reviewing authority may authorize dog pounds or kennels as permitted by the primary zone, and upon a finding that the use would not be detrimental to the adjoining properties and surrounding area because of noise, odor and other associated nuisances.

(1) Building and site design shall be adequate to minimize noise and odor.

(2) A sight-obscuring and sound-reducing fence or hedge or vegetative screening may be required.

(3) Holding cages and facilities may be restricted to being totally located within a building, and sound-insulating construction may be required.

(4) Vehicular access and loading/unloading facilities may be restricted as to number, location and improvement requirements.

(5) The types and numbers of animals permitted may be specified.

(6) Receipt of a valid complaint concerning odor, sanitary conditions and/or noise shall constitute sufficient grounds for immediate permit review and possible revocation.

(7) No on-site disposal of animals shall be permitted.

(E) **Home occupations.** When permitted as a conditional use and conducted as an accessory use to the primary use, a home occupation or a cottage industry may be permitted subject to the following standards and limitations.

(1) It will be operated by a resident of the property on which the business is located.

(2) It shall be limited to either an existing accessory structure, or to not more than 25% of the floor area of the main floor of the primary dwelling.

(3) The use is secondary to the main use of the property as a residence.

(4) No structural alterations or additions shall be permitted to accommodate the use except as approved otherwise by the city or as otherwise required by law, and in no case shall the alterations or additions detract from the outward appearance of the property as a residential use.

(5) Except as approved otherwise by the city, total employment shall not exceed four persons, including the owner/operator(s) and members of the immediate family.

(6) No use shall be permitted that is found to be detrimental to the residential use of the subject, property or adjoining or area properties because of noise, vibration, dust, smoke, odor, traffic interferences with radio or television reception or other factors.

(7) Retail sales shall be limited to those commodities and/or materials used in conjunction with the use, shall not be the primary basis for the proposed use and off-street parking and access shall be designed and provided for at such levels that the customer traffic does not create the appearance of a commercial business parking lot.

(8) No materials or commodities shall be delivered to and from the premises at a time, or of such bulk or quantity, as to create undesirable traffic, noise, congestion or hazards.

(9) Hours of operation and associated activities shall be within normal daylight business hours for the type of business involved, and in no case infringe upon the rights of neighboring residents to enjoy the residential occupancy of their homes. Uses involving nonresident employees, the delivery of goods or materials or customer visits shall limit their hours of operation to between 8:00 a.m. and 6:00 p.m. unless otherwise approved by the city.

(10) The existence of a home occupation or a cottage industry shall not be used as justification for a zone change.

(11) All parking shall be accommodated totally off-street on the subject premises except as approved otherwise by the city, and then may be limited to on-street parking only along the frontage of the subject property.

(12) Sight-obscuring fencing and/or landscaping of at least six feet in height may be required between the use and adjacent properties or public streets.

(13) Signs associated with the proposed use shall not exceed four square feet in area.

(14) The disposal of all wastes associated with the subject use shall be provided for as required by the city and in accordance with applicable city, county and/or DEQ standards.

(15) The use shall only be operated by residents of the property and shall not be leased, sold, conveyed or any interest therein transferred separately from the residence. The transfer of a city permit for such use in conjunction with a property sale shall be subject to city approval as required for an initial permit. As applicable, a city business license shall be required.

(16) A permit issued for a home occupation or a cottage industry shall be reviewed annually following the initial approval to determine continued compliance with these standards and any conditions set forth for the approval and for any identifiable adverse impacts on the residential uses or character of the surrounding area.

(17) The Planning Commission shall review the permit for a home occupation or cottage industry upon the receipt of two or more written complaints of violations of these or applicable state standards or regulations from two or more households within 250 feet of the boundaries of the affected property.

(a) A public hearing shall be held to review the complaints and the subject permit.

(b) The Commission, after reviewing the permit and the complaints relative thereto, and after hearing the evidence presented at the hearing, may, with adequate findings, do any of the following.

1. Approve the continuance of the use as it exists.
2. Require that it be terminated.
3. Impose new and additional restrictions for the continuance. New complaints which are substantially the same as those previously reviewed and acted upon will only be heard by the Commission after a period of six months has elapsed from the date of the earlier decision, unless the Commission believes or finds that any restrictions or conditions imposed on the use have not been followed or complied with.

(F) **Mobile home or manufactured dwelling park.** In addition to the standards and conditions set forth herein, the development shall be in compliance with applicable state regulations, and with any additional conditions set forth in the approval thereof, and such compliance may be required prior to the occupancy of the development. (O.R.S. 446 and O.A.R. 814-28).

(1) Each access road intersecting a public street shall have a surface width of not less than 30 feet, and driveways within the park shall be at least 20 feet in width, or if parking is permitted thereon shall be at least 30 feet in width.

(2) All roads and driveways shall be well-drained and hard-surfaced as approved by the City Superintendents of Streets and Public Works and/or the City Engineer in accordance with city standards and/or with the “durable and dustless surface” definition set forth in § 153.086.

(3) Walkways, bicycle paths or other pedestrian ways may be required, and if required, shall not be less than four feet in width and hard-surfaced in accordance with the foregoing referenced, “durable and dustless surface” definition.

(4) Each space within the park shall be serviced with public water and sewer facilities and electrical power receptacles for solid wastes shall be provided, and fire hydrants shall be installed as deemed necessary by the City Fire Department.

(5) At a minimum, the park shall be provided with at least one box for outgoing mail and another box for incoming mail, however the preferred mail facilities consist of a U.S. Postal Service approved block of individual mailboxes with one for each unit in the park.

(6) There shall be constructed on each unit space, adjacent and parallel thereto, one or more wooden decks or slabs or patios of concrete, asphalt, flagstone or the equivalent, which singularly or in combination total at least 120 square feet

(7) When possible and reasonable, the park shall have a public or private telephone available to the tenants, including service for emergency calls on a 24-hour basis.

(8) In no case shall an individual unit space be permitted that is less than 30 feet in width or less than 40 feet in length.

(9) Except as provided otherwise herein, in no case shall the overall density exceed 12 units per acre. An increase in density may be approved by the city in accordance with the following standards.



(a) If dedicated open space equals 30% or more of the total area of the park, and a program is established and approved for the improvement and maintenance thereof, a maximum increase of 10% may be approved.

(b) If, in addition to subsection (F)(9)(a) of this section, an approved recreation and/or community use building is provided, an additional increase of 5% in density may be approved.

(c) If not otherwise required herein, and if in addition to subsections (F)(9)(a) or (b), or in lieu thereof, a developed and maintained playground area with approved equipment and facilities such as swings, slides, basketball and/or tennis court, picnic tables and the like is provided, an additional increase of 10% in density may be approved.

(d) In no case, however, shall the total of density increases provided for herein exceed 25%.

(10) For any park accommodating or permitting children under 14 years of age, a separate developed recreational play area (that is, a playground as described in subsection (F)(9)(c) above) shall be provided. No such play area shall be less than 2,500 square feet plus 50 square feet of play area for each unit space occupied by or permitted to be occupied by children.

(11) No dwelling unit in the park shall be located closer than 15 feet from another unit or from a general use building in the park. No dwelling unit, other building or structure shall be located within 25 feet of a public street right-of-way line, or within ten feet of any other property boundary line.

(12) No unit shall be permitted in a park as a residence that does not meet the definition set forth by § 153.004.

(13) No recreation vehicle shall be permitted to be located within a park and occupied as a residence, and no such vehicle shall be permitted within a park unless on spaces for such RV use are designated therefor in the park design and approval.

(14) A unit permitted in a park shall be provided with continuous skirting within 30 days of placement.

(15) The total land area used for park purposes may be required to be surrounded, except at entry and exit places, by a sight-obscuring fence or hedge not less than six feet in height.

(16) If a park provides spaces for 20 or more units, each vehicular way in the park shall be named and marked with signs which are similar in appearance and location to those used to identify public streets in the city. A map of the entire development showing named vehicular ways shall be provided to the City Fire Department, other service agencies, the City Police Department and the City Planning Official.

(17) An updated listing of the names and addresses of the occupants of each space in the park shall be maintained at all times and a copy thereof provided to the city upon request.

(G) Temporary mobile home park. With the exception of standards concerning access and driveway improvements, mail service, telephone, playground areas, patios and overall density set forth by division (F) of this section, the city may approve a temporary mobile home park for the establishment of the facility for a construction company, timber

company or farm or by exclusive use by such companies by a party independent thereof. The approval may only be granted if the following conditions are met. (O.R.S. 446.105)

(1) There is no available space, or inadequate space available in existing or planned mobile home parks for which construction has commenced within a reasonable distance.

(2) A mobile or manufactured home park is necessary for the proper housing of the subject company's employees until the construction, farm or logging project is finished.

(3) The subject facility will not be occupied by any parties not employed by the subject company or subcontractors thereto.

(4) There is an identified housing shortage in the area, due to the size of the subject project to be served.

(5) The facility shall not be permitted for a period to exceed the time required to provide temporary housing for the special use or project to be served thereby, or for a period of 12 months, whichever is less.

(6) If the facility is converted or proposed to be converted to a permanent facility at the end of the period, full compliance with the standards and set forth by division (F) of this section shall be required.

(H) **Multi family dwelling complex.** A multi family dwelling complex permitted as a conditional use shall comply with the following standards and conditions, and the compliance shall be evident prior to occupancy except as may otherwise be approved by the city.

(1) All such complexes with more than 20 dwelling units shall be so located as to have direct access onto an improved arterial or collector street unless approved otherwise by the city.

(2) All such complexes shall provide both an improved ingress and egress.

(3) Each access road permitting two-way traffic and intersecting a public street shall have a minimum surface width of not less than 30 feet, and not less than 16 feet in width for single-lane, one-way traffic. Interior complex driveways shall not be less than 24 feet in width for two-way traffic, and not less than 12 feet in width for single-lane traffic. For interior driveways providing on-street parking, an additional eight feet of width shall be added for each parking lane or area. All access roads, driveways and parking facilities shall be improved and maintained with "durable and dustless surfaces" as defined in § 153.086, and as approved by the City Superintendent of Streets.

(4) Sidewalks, walkways, bicycle paths and other pedestrian ways may be required. The walks, paths and ways shall not be less than four feet in width and shall be surfaced with concrete, asphalt, asphaltic concrete or paving bricks as approved by the City Superintendent of Streets.

(5) The complexes may be required to provide storage facilities and/or extra parking spaces as deemed necessary to provide for tenant storage of household goods, equipment, extra furnishings and/or recreation vehicles.

(6) Each complex, and each individual unit contained therein, shall be serviced with public water and sewer, electrical power, receptacles for garbage disposal and collection service, and fire hydrants shall be installed as deemed necessary by the City Fire Department.

(7) Facilities for incoming and outgoing mail shall be installed in accordance with the requirements of the U.S. Postal Service.

(8) When possible and reasonable, each such complex shall have a public or private telephone available to the tenants, including service for emergency calls on a 24-hour basis.

(9) The overall density of the complex shall not exceed the dimensional standards set forth by the applicable zone, except as approved otherwise by the city in accordance with the following factors.

(a) An increase of 5% in the maximum allowable density for dedicated and improved open space equaling 25% or more of the total land area of the development.

(b) An increase of 5% in the maximum allowable density for the development and maintenance of an approved recreation and/or common use building or other indoor facility.

(c) An increase of 5% for a developed playground area (see division (H)(10) of this section).

(d) An increase of 5% for a developed recreation area including a covered picnic area, basketball and/or tennis court facilities and the like.

(e) As an incentive for development excellent, a total increase of 25% may be permitted if three or more of the foregoing are provided.

(10) For any complex permitting or accommodating children under the age of 14 years, a separate playground area shall be provided. No such play area shall be less than 2,500 square feet plus 50 square feet of play area for each unit in the complex occupied by or permitted to be occupied by children. The playground area shall be improved, a minimum of facilities and equipment installed and shall be secured from driveways and parking areas.

(11) For any complex permitting tenants to have recreation vehicles, camp trailers, boats and similar recreational equipment, there shall be provided a separate, designated parking area for such uses at a ratio of one space per each three units in the complex.

(12) If each unit in the complex is not provided with clothes washing and drying facilities, and there is not a private commercial coin-operated laundry facility within a reasonable walking distance, then there shall be provided within the complex a separate laundry facility providing not less than one washer and one dryer for each six units in the complex.

(i) The total land area of the complex may be required to be surrounded, except at entry and exit locations, by a sight-obscuring fence or hedge not less than six feet in height.

(I) **Planned unit development (PUD).** In any zone, a planned unit development may be permitted when authorized in accordance with the procedures for a type II conditional use and in accordance with the applicable subdivision standards set forth in this chapter and specifically with the provisions set forth in § 153.158.

(J) **Cluster Development.** In any zone, a cluster development may be permitted when authorized in accordance with the procedures for a type II conditional use and in accordance with the applicable subdivision standards set forth in this chapter. A

**CLUSTER DEVELOPMENT** is a development technique wherein structures or lots are grouped together around access courts or cul-de-sacs, or where lot sizes surrounding structures are reduced while maintaining the density permitted by the applicable zoning designation.

(1) A cluster development may be permitted to maintain open space, reduce street and utility construction and to increase the attractiveness of a development and the surrounding area.

(2) Clustering may be carried out within the context of a subdivision, partitioning, PUD, replatting of existing lots or other reviews provided for by this ordinance.

(3) Single family attached dwellings may be permitted by the Commission so long as the density of the applicable zone is not exceeded, provided that the overall design is considered to be in the best public interest and in the interest of the city.

(4) The Commission may permit reduction in the minimum lot size or dimensional standards, setbacks or other standards of the applicable zone so long as the density requirements of the zone are maintained, and provided the overall design is considered to be beneficial to the residents of the development and to the city as a whole.

(K) **Radio, telephone or television transmitter tower, utility station or substation.** When authorized within the applicable zoning, the following standards and limitations shall apply to radio, telephone or television transmitter towers, or utility stations and substations.

(1) In a residential zone, all equipment storage on the site shall be enclosed within a building.

(2) The use may be required to be fenced, including sight-obscuring, and provided with landscaping.

(3) Coloring of structures, buildings and other permanent installations shall be of neutral colors or colors that otherwise blend with the surrounding natural features unless otherwise required by the Commission.

(4) The Commission may set standards or limitations regarding height, shape, location or factors necessary to minimize the impact of the facilities on the area in which they are proposed to be located.

(5) The Commission may set any standards or limitations deemed necessary to insure that the proposed facilities are aesthetically pleasing and compatible with the area.

(L) **Recreation Vehicle Parks.** A recreation vehicle park shall be constructed, maintained and operated in accordance with applicable state standards and regulations, and shall also comply with the standards and conditions set forth herein. (O.R.S. 446 and O.A.R. 333-31).

(1) Water supply service to each camping space is not required, but at least one water supply service shall be provided on-site.

(2) In lieu of individual sewer connections, at least one sewage disposal station shall be provided on-site for the park.

(3) All solid waste shall be stored in individual garbage containers, storage bins or storage vehicles. All such containers shall have tight-fitting lids, covers or closable tops, and shall be durable, rust-resistant, watertight, rodent-proof and be readily

washable. All solid waste shall be collected for disposal at regular intervals not to exceed seven days.

(4) Liquefied petroleum gas storage tanks on-site shall be approved by the City Fire Chief and/or the State Fire Marshall as applicable.

(5) Toilet, hand washing and bathing facilities shall be maintained to meet the requirements set forth by the Building Official and the County and/or State Health Division.

(6) Eating and drinking establishments, commissaries, mobile units and vending machines operated in conjunction with the park shall be approved in accordance with applicable provisions of this chapter and in accordance with applicable regulations administered by the County and/or State Health Division.

(7) All swimming pools, spa pools and wading pools in a recreation park shall comply with the applicable rules of the County and/or State Health Division.

(8) The owner and/or management of a recreation park shall maintain all buildings, grounds, rental units, spaces and furnishings in good repair and appearance, and in clean condition at all times.

(9) Either the owner, an operator, resident manager or other supervisor shall be available on the premises of a recreation park at all times while it is open for use, except as otherwise approved by the city.

(10) Each camping space shall be identified by number, letter or name.

(11) Each camping space shall be large enough to accommodate the parked camping vehicle, tent vehicle or tent as the case may be and for which the space was intended or designed, and to maintain at least ten feet separation from any other camping vehicle or tent, ten feet from any building, 20 feet from a boundary line abutting a public street or highway and ten feet from any other boundary line. Only one camping vehicle, tent vehicle or tent is permitted per space.

(12) Each recreation park shall have direct access to either an arterial or collector street. Each access road intersecting a public street or highway shall have a surface width of not less than 30 feet, and driveways within the park shall be at 20 feet in width or if parking is permitted thereon, 30 feet in width. All roads and driveways shall be well-drained and hard-surfaced as approved by the city and the City Superintendent of Streets.

(13) Each space in the park shall have direct access to a park driveway or road.

(14) Except as approved otherwise in those parks providing independent sewer and water services to individual spaces, toilet facilities shall be provided in recreation vehicle parks in the following ratios.

Number of Spaces	Number of Toilets
1-15	2
16- 30	3
31- 60	5
61-100	7

(15) The density of RV parks shall not exceed 20 campsites per acre except as otherwise approved by the Commission; the Commission may adjust the density downward in the case of limitations necessary by steep slopes, geologic or natural features or impacts on adjacent areas.

(16) Each recreation vehicle space shall be a minimum of 200 square feet.

(17) Each RV space shall contain no more than 33% paving or concrete.

(18) Landscaped or open space areas shall be a minimum of 20% of the project site, and may include nature trails, buffers, landscaping, common picnic or recreation areas, wetlands or streams.

(19) Accessory uses may include an owner's/manager's office/residence, restroom and bathing facilities, laundry, mini market with limited gasoline and propane gas services, swimming pool and other small-scale recreational facilities such as tennis courts, miniature golf and playgrounds for the use of park customers only.

(20) One additional parking space for each four campsites shall be provided in convenient locations throughout the park, except that this requirement may be reduced where individual RV spaces are of such dimensions to permit at least one additional parking space on site.

(21) The Commission may exempt certain temporary recreation vehicle facilities from the on-site improvement requirements, requirements for toilets, water supply, sewage disposal and spacing if such temporary facilities are for the purpose of accommodating a camping vehicle rally or other groups of camping vehicles assembled for the purpose of traveling together or for special events such as fairs, rodeos, races, derbies, community event celebrations and the like and the Commission finds that the public health will not be endangered. The period of operation shall be designated by the Commission as shall other conditions such as solid waste collection and disposal found necessary to protect the public health and general welfare. In no case shall the temporary facilities be approved in conjunction with private commercial activities, except as temporary RV locations for highway or building construction or forestry projects, and in no case shall a temporary facility for the projects be approved if other alternatives for housing the employees associated with such projects are found to be available.

(M) Camping vehicle building, boat building, cabinet, carpentry or other contractors' shops, machine shops, vehicle repair or storage or similar uses.

(1) Materials, vehicles or parts shall be stored in an enclosed structure, or where impractical in a structure, behind fences or vegetative buffers.

(2) Odors, fumes, sawdust or other emissions shall be controlled so as not to affect adjacent properties.

(3) Noise and other pollution or contaminant discharge standards of the Department of Environmental Quality shall be adhered to.

(N) **Public facilities and services.**

(1) Public facilities including, but not limited to, utility substations, sewage treatment plants, storm water and water lines, water storage tanks, radio and television transmitters, electrical generation and transmission devices, fire stations and other public facilities shall be located so as to best serve the community or area with a minimum impact on neighborhoods, and with consideration for natural aesthetic values.

(2) Structures shall be designed to be as unobtrusive as possible.

(3) Wherever feasible, all utility components shall be placed underground.

(4) Public facilities and services proposed within a wetland or riparian area shall provide findings of the following.

(a) The location is required and a public need exists.

(b) Dredging, fill and other adverse impacts are avoided, minimized or mitigated to the maximum extent reasonable.

(O) **Airports, aircraft landing fields**, aircraft charter, rental, service and maintenance facilities not located in an Airport (A-) Zone. In the review and approval of the facilities, the Planning Commission shall find the following.

(1) That the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties.

(2) That the location will not unnecessarily restrict existing and future development of surrounding lands as designated by the Comprehensive Plan.

(3) That the location will not unnecessarily restrict, be in conflict with or be hazardous to the existing and future development of the City-County Airport.

(4) As applicable, the subject facility has been reviewed and approved by the State Department of Aeronautics and/or the Federal Aviation Administration; or, as applicable, the review and approval is a condition of approval.

(P) **Cemeteries**. The Commission shall require evidence and shall find that the terrain and soil types of a proposed location are suitable for interment, and that the nature of the subsoil and drainage will not have a detrimental effect of ground water sources or domestic water supplies in the area of the proposed use.

(Q) **Church, hospital, nursing home, convalescent home, retirement home, elderly assisted housing complex**. Such uses, when authorized as a conditional use, may be approved only after consideration of the following factors.

(1) Sufficient areas provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses and additional lot areas shall be required therefor.

(2) Location of the site relative to the service area.

(3) Probable growth and needs therefor.

(4) Site location relative to land uses in the vicinity.

(5) Adequacy of accesses to and from principal streets together with the probable effect on the traffic volumes and patterns of abutting and nearby streets.

(6) Such uses or related buildings shall be at least ten feet from a side or rear lot line abutting an existing residential use in a commercial or industrial zone, and 20 feet from a side or rear lot line abutting a residential zone.

(7) Such uses may be required to provide sound-insulating screening and/or construction methods if found to be within an area of influence of an existing commercial or industrial use which is considered incompatible with a noise sensitive use.

(8) Such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

(9) Such uses should provide for, and may be required to provide, outside sitting and/or exercise areas in sufficient areas to accommodate patient or resident loads.

(R) **Solid waste collection, disposal and/or transfer station.** The Planning Commission or other reviewing authority may authorize a solid waste collection and/or disposal site or transfer station as a conditional use, subject to the following standards.

- (1) The proposed site shall not create a fire hazard, litter, insect or rodent nuisance or air or water pollution in the area.
- (2) The proposed site shall be located in or as near as possible to the area being served.
- (3) The proposed site shall be located at least one-fourth mile from any existing dwelling, home or public road (except the access road), unless approved otherwise with adequate screening and buffering.
- (4) The proposed site shall be provided with a maintained access road (all-weather).
- (5) The proposed site and facility shall be enclosed in such a manner that materials that may be carried by the wind or animals is totally contained within the site.
- (6) Any other condition that the reviewing authority deems necessary to minimize the potential adverse impacts on the surrounding area, while taking into account the public need for solid waste disposal alternatives.

(S) **Mining, quarrying or other aggregate extraction or processing activities.** Plans and specifications submitted to the Planning Commission or other reviewing authority for approval must contain sufficient information to allow the Commission or other authority to consider and set standards pertaining to the following.

- (1) The most appropriate use of the land.
- (2) Setbacks from the property lines and surrounding uses.
- (3) The protection of pedestrians and vehicles through the use of fencing and screening.
- (4) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
- (5) The prevention of the collection and the stagnation of water at all stages of the operation.
- (6) Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which may be injurious or annoying to persons or other uses in the vicinity.
- (7) The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.
- (8) A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial zone.
- (9) A sight-obscuring fence or other screening may be required by the reviewing authority, when, in its judgement, the fence or other screening is necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

(T) **Motel, hotel, convention center, multi use pavilion, sports arena or other similar uses.** Such uses, when authorized as a conditional use, may be approved only after consideration of the following factors.



- (1) Sufficient areas provided for the main buildings, required yards, off-street parking and related or accessory or support structures and uses.
- (2) Location of the site relative to the service area or to other related facilities and uses.
- (3) Probable growth and needs therefor.
- (4) Site location relative to land uses in the vicinity.
- (5) Adequacy of accesses to and from principal streets; relative thereto, access must be to either a designated collector or arterial street.
- (6) Such uses or related buildings shall be at least 20 feet from a side or rear lot line abutting a residential use or a residential zone.
- (7) Such uses may be required to provide sound-insulating screening and/or construction methods if found to be within an area of influence of an existing commercial or industrial use which is considered incompatible with a noise sensitive use.
- (8) Such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

(U) **Professional commercial uses.** Professional commercial uses such as offices for accountants, bookkeepers, attorneys, engineers, architects, doctors, dentists, real estate and insurance and medical or dental clinics in an R-2, R-3 or R-4 Zone subject to the following conditions and limitations.

- (1) Shall be located within a preexisting residential structure.
- (2) Has frontage on an existing designated or future planned arterial and/or collector street.
- (3) Access to and from the proposed use is not required solely to pass through a residentially zoned and developed area on a local or lower classified street.
- (4) Traffic and parking generated and/or required by the proposed use will adversely affect the overall residential character of the area.
- (5) The proposed use is found to result in a general improvement of the physical appearance and aesthetics of the subject property and the general area.
- (6) In reviewing and approving such a use, the reviewing authority may consider the following factors.
  - (a) The need for screening, landscaping and other factors that will minimize the impact of the proposed use on adjoining residential uses.
  - (b) The need for, and availability of, off-street parking.
  - (c) Limitations on hours and days of operations, signing and other factors deemed necessary to preserve and protect the residential character of the neighborhood.

(Ord. 1057, passed 3-24-98)

**§ 153.144 TIME LIMIT ON A CONDITIONAL USE PERMIT.**

- (A) Authorization of a conditional use permit shall be null and void after one year or such other time as may be specified in the approval thereof unless substantial development, compliance and/or investment is clearly evident.
- (B) Issuance of a conditional use permit shall confer no right to the applicant beyond the time period for which it was issued.

(C) If the conditions applicable to a conditional use permit are not fulfilled within a reasonable time, the Commission may revoke the permit after giving notice to the applicant, affected property owners and other affected persons or parties, and upon holding a public hearing to make the determination.

(Ord. 1057, passed 3-24-98)

## **SUBDIVISIONS AND PARTITIONINGS**

### **§ 153.155 PURPOSE.**

It is the purpose of this subchapter, in accordance with the provisions of O.R.S. Chs. 92 and 227, to provide for minimum standards governing the approval of land divisions, including subdivisions and land partitionings, as necessary to carry out the needs and policies for adequate traffic movement, water supply, sewage disposal, drainage and other community facilities, to improve land records and boundary monumentation and to ensure equitable processing of subdivision, partitioning and other land division activities within the city and the surrounding urban area.

(Ord. 1057, passed 3-24-98)

### **§ 153.156 APPLICABILITY.**

No person may subdivide, partition or otherwise divide land, or create a planned unit or cluster development, or create a street for the purpose of developing land except in accordance with the provisions of this subchapter, this chapter and O.R.S. Ch. 92. (O.R.S. 92.012 and 277.100).

(Ord. 1057, passed 3-24-98)

### **§ 153.157 SUBDIVISIONS-APPLICATIONS.**

(A) Application. Any person proposing a subdivision, or the authorized agent or representative thereof, shall submit an application for a subdivision to the City Planning Department. The application shall be accompanied with ten copies of either an outline development plan as provided for in division (B) of this section, or a tentative plan as set forth in division (C) of this section, together with improvement plans and other supplementary material as may be required, and the appropriate filing fee as established by the City Council. The time of filing shall be construed to be the time when all of the foregoing materials are received by the appropriate city official and are thereby certified as being complete.

(B) Outline development plan. The submittal of an outline development plan in the subdivision application process is at the option of the applicant and/or developer. If an outline development plan is prepared and submitted with the application for a subdivision, it shall include both maps and written statements as set forth in this division (B).

(1) The maps which are part of an outline development plan may be in schematic form, but shall be to scale and shall contain the following information.

- (a) The existing topographic character of the land.
- (b) Existing and proposed land uses, and the approximate location of buildings and other structures on the project site and adjoining lands, existing and proposed.
- (c) The character and approximate density of the proposed development.
- (d) Public uses including schools, parks, playgrounds and other public spaces or facilities proposed.

(e) Common open spaces and recreation facilities and a description of the proposed uses thereof.

(f) Landscaping, irrigation and drainage plans.

(g) Road, street and other transportation facility schematic plans and proposals.

(2) Written statements which shall be part of the outline development plan submittal shall contain the following information.

(a) A statement and description of all proposed on-site and off-site improvements.

(b) A general schedule of development and improvements.

(c) A statement setting forth proposed types of housing and other uses to be accommodated, and a projection of traffic generation and population.

(d) A statement relative to the impact on the carrying capacities of public facilities and services, including water and sewer systems, schools, serving utilities, streets and the like.

(e) A statement relative to compatibility with adjoining land uses, present and future, environmental protection and/or preservation measures and impacts on natural resource carrying capacities of the site and surrounding/adjacent areas.

(3) Commission approval of an outline development plan for a subdivision shall constitute only a conceptual approval of the proposed development for general compliance with the city's Urban Area Comprehensive Plan, applicable zoning and this chapter.

(4) Commission review and action on an outline development plan shall be completed within 45 days from the date of submittal and certification of a complete application.

(C) Tentative plan required. Following submittal and approval of an outline development plan and subdivision application, or as an initial subdivision application, any person proposing a subdivision shall submit a tentative plan together with the required application form, accompanying information and supplemental data and required filing fee, prepared and submitted in accordance with the provisions of this division (C). (O.R.S. 92.040) Note: Applicants should review the design standards set forth in §§ 153.190 et seq. of this chapter prior to preparing a tentative plan for a development.

(1) Scale of tentative plan. The tentative plan of a proposed subdivision shall be drawn on a sheet 18 by 24 inches in size or multiples thereof at a scale of one inch equals 100 feet or multiples thereof as approved by the City Planning Official. (O.R.S. 92.080). In addition, at least one copy of the plan on a sheet of paper measuring 8 ½ inches by 11 inches or 11 inches by 17 inches shall be provided for public notice requirements.

(2) Information requirements. The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan submittal shall be considered complete, unless all such information is provided unless approved otherwise by the Planning Official.

(a) General information required.

1. Proposed name of the subdivision.

2. Names, addresses and phone numbers of the owner of record and subdivider, authorized agents or representatives, and surveyor and any

assumed business names filed or to be filed by the owner or subdivider in connection with the development.

3. Date of preparation, north point, scale and gross area of the development.
4. Identification of the drawing as a tentative plan for a subdivision.
5. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.

(b) Information concerning existing conditions.

1. Location, names and widths of existing improved and unimproved streets and roads within and adjacent to the proposed development.
2. Location of any existing features such as section lines, section corners, city and special district boundaries and survey monuments.
3. Location of existing structures, fences, irrigation canals and ditches, pipelines, waterways, railroads and natural features, such as rock outcroppings, marshes, wetlands, geological features and natural hazards.
4. Location and direction of water courses, and the location of areas subject to erosion, high watertables, storm water runoff and flooding.
5. Location, width and use or purpose of any existing easements or right-of-ways within and adjacent to the proposed development.
6. Existing and proposed sewer lines, water mains, culverts and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades and locations.
7. Contour lines related to some established bench mark or other acceptable datum and having minimum intervals of not more than 20 feet.

(c) Information concerning proposed subdivision.

1. Location, names, width, typical improvements, cross-sections, approximate grades, curve radii and length of all proposed streets, and the relationship to all existing and projected streets.
2. Location, width and purpose of all proposed easements or right-of-ways, and the relationship to all existing easements or rights-of-way.
3. Location of at least one temporary bench mark within the proposed subdivision boundary.
4. Location, approximate area and dimensions of each lot and proposed lot and block numbers.
5. Location, approximate area and dimensions of any lot or area proposed for public, community or common use, including park or other recreation areas, and the use proposed and plans for improvements or development thereof.
6. Proposed use, location, area and dimensions of any lot which is intended for nonresidential use and the use designated thereof.
7. An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed.

8. Source, method and preliminary plans for domestic water supply, sewage disposal, solid waste collection and disposal and all utilities.

9. Storm water and other drainage plans.

(D) Master development plan required. An overall master development plan shall be submitted for all developments planning to utilize phase or unit development. The plan shall include, but not be limited to, the following elements.

(1) Overall development plan, including phase or unit sequences and the planned development schedule thereof.

(2) Schedule of improvements initiation and completion.

(3) Sales program timetable projection.

(4) Development plans of any common elements or facilities.

(5) Financing plan for all improvements.

(E) Supplemental information required. The following supplemental information shall be submitted with the tentative plan for a subdivision.

(1) Proposed deed restrictions or protective covenants, if such is proposed to be utilized for the proposed development.

(2) Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this subchapter, the applicable zoning regulations or any other applicable local, state or federal ordinance, rule or regulation.

(F) Tentative plan review procedures.

(1) Tentative plan review.

(a) Within ten days of the receipt of a completed tentative plan filing, the City Planning Official shall schedule a review of the plan with the Development Review Committee as provided for in § 153.159 of this chapter.

(b) The City Planning Official shall provide a copy of the Development Review Committee's review to the applicant within five working days of the review.

(c) Within 20 days of a completed filing, or not less than seven days prior to the scheduled Commission hearing on the subject tentative plan, the City Planning Official shall provide each Planning Commission member with a copy of the subject tentative plan, together with the City Planning Staff Report applicable thereto.

(d) Within 30 days of receipt of notification of such filing by the Planning Official, the Planning Commission shall conduct a public hearing on the proposed development plan, and within 15 days of the hearing the Commission shall either approve, approve with modifications, conditionally approve or disapprove the subject development plan, and set forth the findings, conclusions and reasoning for the decision. The Commission may recess or continue the hearing for good cause for a period not to exceed 30 days.

(e) If no action is taken by the Commission within 120 days from the date of the certification of the Planning Official of the receipt of a completed application, the tentative plan as filed shall be deemed to be approved, and it shall be the duty of the Planning Official to certify the approval.

Upon agreement of the applicant and/or developer, however, the 120-day limitation may be extended. (O.R.S. 227.178 and 92.105)

(f) Following Commission approval of a tentative plan, the plan, together with the Commission's written decision and all accompanying information, shall be forwarded to the City Council for informational review.

(g) The decision of the Commission shall be final unless appealed pursuant to the applicable provisions of this chapter, or unless the Council, on its own motion, calls the decision up for formal review and action.

(h) The Commission's decision shall be set forth in a written decision, and in the case of approval shall be noted on not less than two copies of the tentative plan, including references to any attached documents setting forth specific conditions.

(G) Tentative approval relative to final plat. Approval of the tentative plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the tentative plan shall be binding upon the city for preparation of the final plat and the city may require only such changes as are deemed necessary for compliance with the terms of its approval of the tentative plan. (O.R.S. 92.040)

(H) Resubmission of denied tentative plan. If the tentative plan for a subdivision is denied, resubmittal of an application for a subdivision of the subject property thereof shall not be accepted by the city for a period of six months after the date of the final action denying the plan. Resubmittal shall be considered a new filing, but shall require the applicant to consider all items for which the prior denial was based, in addition to the other filing requirements set forth by this chapter.

(I) Requirements for approval. The Commission shall not approve an outline development plan or a tentative plan for a subdivision unless the Commission finds, in addition to other requirements and standards set forth by this chapter and other applicable city ordinances, standards and regulation, the following.

(1) The proposed development is consistent with applicable goals, objectives and policies set forth by the city's Comprehensive Plan. (O.R.S. 197.175(2)(b) and 227.175 (4))

(2) The proposal is in compliance with the applicable zoning regulations applicable thereto. (O.R.S. 92.090(2)(C))

(3) The proposal is in compliance with the design and improvement standards and requirements set forth in § 153.190 et seq. or as otherwise approved by the city, or that such compliance can be assured by conditions of approval.

(4) The subdivision will not create an excessive demand on public facilities and services required to serve the proposed development, or that the developer has proposed adequate and equitable improvements and expansions to the facilities with corresponding approved financing therefor to bring the facilities and services up to an acceptable capacity level (Goal 11).

(5) The development provides for the preservation of significant scenic, archaeological, natural, historic and unique resources in accordance with applicable provisions of this chapter and the Comprehensive Plan (Goal 5).

(6) The proposed name of the subdivision is not the same as, similar to or pronounced the same as the name of any other subdivision in the city or within a six mile radius thereof, unless the land platted is contiguous to and platted as an extension of an existing subdivision. (O.R.S. 92.090)

(7) The streets and roads are laid out so as to conform to an adopted transportation system plan for the area, and to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern. (O.R.S. 92.090(2)(a))

(8) Streets and roads for public use are to be dedicated to the public without any reservation or restriction; and streets and roads for private use are approved by the city as a variance to public access requirements. (O.R.S. 92.090(2)(b))

(9) Adequate mitigation measures are provided for any identified and measurable adverse impacts on or by neighboring properties or the uses thereof or on the natural environment.

(10) Provisions are made for access to abutting properties that will likely need such access in the future, including access for vehicular and pedestrian traffic, public facilities and services and utilities.

(11) Provisions of the proposed development to provide for a range of housing needs, particularly those types identified as needed or being in demand. (Goal 10 and O.R.S. 197.303-307)

(J) Final plat for a subdivision.

(1) Submission of final plat.

(a) Time requirement. Except as otherwise approved in accordance with the approval of a master plan for a subdivision planned for unit or phase development, the subdivider shall, within one year after the date of approval of the tentative plan for a subdivision, prepare and submit the final plat for a subdivision that is in conformance with the tentative plan as approved and with all conditions applicable thereto.

1. The subdivider shall submit not less than ten prints of the original drawing and any supplemental information or material required by this chapter and by the tentative plan approval.

2. The filing shall be to the City Planning Official. If the subdivider fails to file the final plat before the expiration of the one-year period, the tentative plan approval shall be declared null and void and a new submittal required if the subdivider wishes to proceed with the development.

(b) Master development plan. In the case of a subdivision for which a master development plan has been approved, the tentative plans for each unit or phase thereof shall be submitted in accordance with the schedule approved as a part of the master plan.

(c) Extension. An extension of one year to the filing time for a final plat may be approved by the Commission upon evidence being submitted by the developer that the extension is necessary due to factors beyond the control of the developer; for example, appeals, weather and the like.

(d) Form of final plat. The final plat shall be prepared in conformance with the applicable standards of O.R.S. Ch. 92 and the requirements of the Crook County Surveyor and Crook County Clerk. A copy of the final plat shall also be provided on a sheet of paper measuring, 8½ inches by 11 inches or 11 inches by 17 inches for public review requirements. The final plat data shall also be provided on a 3.5-inch computer disk in a format adaptive to the city's computer mapping system.

- (2) Requirements of survey and plat of subdivision. (O.R.S. 92.050)
  - (a) The survey for the plat of a subdivision shall be of such accuracy and with reference to such guidelines as required by O.R.S. Ch. 921.
  - (b) The survey and plat shall be made by a registered professional land surveyor.
  - (c) The plat shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon.
  - (d) The locations and descriptions of all monuments shall be recorded upon all plats and the proper courses and distances of all boundary lines shown.
- (3) Monumentation requirements. Monumentation of all subdivisions and plats therefor shall be in compliance with the provisions of O.R.S. Chs. 92.060 and 92.065.
- (4) Information required on final plat. In addition to that required by the tentative plan approval or otherwise required by law, the following information shall be shown on the final plat.
  - (a) All survey reference information.
  - (b) Tract and lot boundary lines, and street right-of-way and centerlines, with dimensions, bearings or deflection angles. Tract boundaries and street bearings shall be to the nearest second; distances to the nearest 0.01 feet. No ditto marks are permitted.
  - (c) Width of streets being dedicated. Curve data based on centerlines for streets on curvature; the radius, central angle, arc length, chord length and chord bearing shall be shown.
  - (d) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference.
  - (e) Lot numbers beginning with the number "1" and numbered consecutively and without omission.
  - (f) The initial point shall be marked with an aluminum pipe or galvanized iron pipe not less than two inches inside diameter 30 inches long before flaring with a 2½ inch minimum diameter aluminum or galvanized cap as appropriately securely attached marked with steel ties with the following information for that subdivision: initial point, subdivision name, year and land surveyor registration number.
- (5) Certificates required on final plat. The following certificates are required on the final plat. (O.R.S. 92.070 to 92.120)
  - (a) Certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
  - (b) Certificate signed and acknowledged as above dedicating all land intended for public use.
  - (c) Certificate with the seal of and signed by the land surveyor responsible for the survey and the final plat preparation.
  - (d) Certificate for the County Surveyor.
  - (e) Certificate for the Chairman of the City Planning Commission.
  - (f) Certificate for the County Tax Collector.
  - (g) Certificate for the County Assessor.



- (h) Certificates for the City Street Superintendent, City Superintendent of Sewer and Water, City Fire Chief and City Planning Director.
- (i) Other certificates required by state law or by the city.
- (j) Certificate for approval or execution by the City Council.

(6) Supplemental information with final plat. The following data, in addition to any other data required as a part of the tentative plan approval, shall be submitted with the final plat.

(a) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, and evidence of a clear and marketable title.

(b) A copy of any deed restrictions or protective covenants applicable to the subdivision.

(c) A copy of any dedication requiring separate documents such as for parks, playgrounds and the like.

(d) A copy of any homeowner's association agreements proposed or required for the development.

(e) For any and all improvements such as streets, sewer, water, utilities and the like that are required or proposed as a part of the tentative plan approval, the following shall be required to be submitted with the final plat, and such shall be prepared by a licensed surveyor or engineer.

1. Cross-sections of proposed streets, widths of roadways, types of surfacing, curb locations and specifications, width and location of sidewalks, other pedestrian ways and/or bikeways.

2. Plans and profiles of proposed sanitary sewers, location of manholes and proposed drainage facilities.

3. Plans and profiles of proposed water distribution systems showing pipe sizes, location of valves and fire hydrants as applicable.

4. Specifications for the construction of all proposed utilities.

5. Proof of guaranteed access to the primary serving public street or highway.

(7) Technical review of final plat. Within five working days of receipt of the final plat submittal, the City Planning Official shall initiate a technical review of the submittal as herein provided.

(a) Notification of the receipt of and opportunity for review thereof shall be given to the Superintendents of Streets and Public Works, the City Fire Chief, City Engineer, City Attorney, representatives of any serving special districts, utility companies and any other affected agencies.

(b) The parties shall complete the technical plat review and shall submit findings to the City Planning Official within ten days of the notice.

(c) Based on the reviews, should the Planning Official determine that full conformity has not been made, the subdivider shall be advised thereof of the needed changes or additions and shall be afforded a reasonable opportunity (not to exceed 30 days) to make the changes or additions.

(d) Other required procedures for processing a final plat are set forth in § 153.162.

(8) Commission review and approval of final plat. Within 30 days following the receipt of the final plat with the results of the technical plat review, the Commission shall determine whether or not the submittal complies with this chapter, other applicable standards and regulations and the tentative plan approval.

(a) If the Commission does not approve the final plat, it shall advise the subdivider of the reasons therefor, and shall provide an opportunity to make corrections.

(b) If the Commission approves the final plat, approval shall be indicated by the signature of the Chairman of the Commission on the plat.

(9) Council approval of final plat. Within ten working days of Commission approval of the plat, it shall be submitted to the Council for final action. The Council shall take action on the subject plat at its first regular meeting following receipt thereof.

(10) Final plat approval requirements. No final plat for a proposed subdivision shall be approved unless it is found to comply with the following minimum standards. (O.R.S. 92.090 (3))

(a) The final plat is found to be in strict compliance with the tentative plan approval and all conditions set forth thereby.

(b) Streets and roads for public use are dedicated without any reservations or restrictions.

(c) Streets and roads held for private use are clearly indicated.

(d) The plat contains a donation to the public of all common improvements and public uses proposed or required as a condition of approval of the tentative plan.

(e) All proposed or required improvements have either been completed and approved by the city or that a bond, contract or other assurance therefor has been provided for and approved by the City Council.

(11) Recording of final plat. The subdivider shall, without delay, submit the final plat for the approval and signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 45 days after the date of approval of the City Council.

(a) After obtaining all required approvals and signatures, the subdivider shall file the plat and an exact copy thereof in the County Clerk's office.

(b) No plat shall be recorded unless all ad valorem taxes and special assessments, fees or other charges required by law to be placed upon the tax rolls which have become a lien or which will become a lien during the calendar year on the subdivision have been paid.

(c) Not less than 12 copies of the recorded plat shall be provided to the City Recorder, Planning Official or County Surveyor at the developer's expense. The County Surveyor may request an additional number of copies required at time of final plat review if deemed appropriate. A computer file of the plat on a 3.5-inch computer disk in a computer format adaptable to the city's computer mapping system shall also be provided to the city.

(Ord. 1057, passed 3-24-98)

**§ 153.158 PLANNED UNIT DEVELOPMENT (PUD).**

(A) Authorization. When a planned unit development is authorized pursuant to the provisions of the applicable zoning or by other provisions of this chapter, the development may be approved by the city in accordance with the provisions of this section and this chapter. A PLANNED UNIT DEVELOPMENT (PUD) is a development technique where the development of an area of land is developed as a single entity for a number and/or mixture of housing types, or a mixture of other types of uses, or a combination thereof, according to a specific development plan which does not necessarily correspond relative to lot sizes, bulk or types of dwelling units, density, lot coverages or required open space as required by the standard provisions set forth by this chapter and the specific applicable zoning designation.

(B) Applicability of regulations. The requirements for a planned unit development set forth in this section are in addition to the requirements set forth for a standard subdivision by § 153.157 of this chapter, and in addition to those requirements set forth in § 153.143(I).

(C) Purpose. The purpose of the planned unit development provisions is to permit the application of innovative designs and to allow greater freedom in land development than may be possible under the strict application of the applicable zoning provisions and this chapter. In permitting such design and development freedom, the intent is to encourage more efficient uses of land and public facilities and services, to maximize community needs for a variety of housing, commercial and recreational needs and to maintain as high of a quality of living environment as reasonably possible.

(D) Principal and accessory uses.

(1) The principal uses permitted within a planned unit development may include any use permitted, outright or conditional in the zone in which the subject proposed development is located.

(2) Except for open land uses such as golf courses, parks, natural areas or resources and the like, accessory uses shall not occupy more than 25% of the total area of the development, must be approved as a part of the initial development approval and may include the following uses.

(a) Golf course.

(b) Related commercial uses not to exceed 3% of the total land area of the development.

(c) Private park, lake or waterway.

(d) Tourist accommodations including convention or destination resort facilities.

(e) Recreation areas, buildings, clubhouse or other facilities of a similar use or type.

(f) Other uses which the city finds are designed to serve primarily the residents of the proposed development or are open to and of benefit to the general public, and are compatible to the overall design of the proposed development and with the city's Comprehensive Plan.

(E) Dimensional standards.

(1) The minimum lot area, width, depth, frontage and yard (setback) requirements otherwise applying to individual lots in the applicable zone may be altered

for a planned unit development provided that the overall density factor calculated for the applicable zone is not exceeded by more than 25%.

(2) Building heights exceeding those prescribed for by the applicable zone may only be approved if surrounding open space, building setbacks and other design features are used to avoid any adverse impacts due to the greater height. In general, and as a guideline, setback requirements should be required to be at least two-thirds of the height of a building.

(3) The building coverage for any PUD shall not exceed 40% of the total land area of the proposed development.

(4) Common open space and other such amenities, exclusive of streets, should constitute at least 30% of the total land area of the development.

(5) No PUD in a residential zone may be approved on a site with a total land area less than five acres, and in a commercial zone on a site less than two acres, except as approved otherwise by the city.

(F) Project density approval. If the Planning Commission finds that any of the following conditions would be created by an increase in density permitted by this section for a PUD, it may either prohibit any increase or may limit the increase as deemed necessary to avoid the creation of any of the following conditions.

(1) Inconvenient or unsafe access to the proposed development or adjoining developments or properties.

(2) Generation of traffic loads in excess of the capacity of streets which adjoin or will serve the proposed development and in the overall street system in the area of the development.

(3) Creation of an excessive burden on sewage, water supply, parks, recreational facilities, areas or programs, schools and other public facilities which serve or are proposed to serve the proposed development.

(G) Common open space. No open area may be accepted as common open space within a PUD unless it meets the following requirements.

(1) The common open space is for an identified and designated amenity or recreational purpose(s), and the uses proposed or authorized therefor are appropriate to the scale and character of the proposed development.

(2) The common open space will be suitably improved for its intended use, except that the open space containing significant natural features worthy of preservation in the natural state may be left unimproved, but there shall be approved plans and/or provisions for the continued preservation thereof.

(3) The buildings, structures and improvements to be permitted in the open space are determined to be appropriate and accessory to the uses which are authorized for the open space.

(4) No common open space may be put to a use not authorized and approved in the final development plan of the subject development unless an amendment thereto is duly approved by the city.

(H) Application and procedures. The application for a PUD, and the procedures for the processing of the applications, shall be the same as set forth for a standard subdivision in § 153.157 and for a conditional use as set forth in § 153.135 et seq.

(Ord. 1057, passed 3-24-98)

**§ 153.159 SUBDIVISION AND PUD REVIEW.**

(A) In addition to those to whom notice is otherwise required by this chapter or by law, those persons, parties or agencies set forth below and identified as affected parties shall be given individual notice and the opportunity to review and comment to the Planning Commission on a proposed subdivision or PUD. The notice shall be mailed within ten days of the submittal of the plan, and the response time shall be at least ten days from the receipt of the notice. These same persons, parties or agencies shall constitute the membership of the City Development Review Committee.

- (1) City Superintendent of Public Works.
- (2) City Superintendent of Streets.
- (3) County Roadmaster as applicable.
- (4) Police: city and county if affected.
- (5) City Fire Chief and Rural Fire District if affected.
- (6) Public utility representatives.
- (7) Ochoco Irrigation District as applicable.
- (8) School district representatives.
- (9) City Engineer as applicable.
- (10) Parks and Recreation District Director.

(B) Development review conference. The City Planning Director shall schedule a meeting with the City Development Review Committee and the developer(s) or authorized agent, engineer and/or surveyor. The City Development Review Committee, at a minimum, shall include all of those parties listed in division (A) of this section.

(C) Committee review factors. In review of a proposed development, the Committee shall, at a minimum, consider the following factors.

- (1) Tentative plat requirements.
- (2) Possible adverse effects on the development by natural hazards, or adverse effects on any natural or other Goal 5 resources by the development.
- (3) Quantity and quality of existing or proposed water supply, and the adequacy of the existing or proposed sewage disposal system.
- (4) Adequacy of public services to serve the increase in population to be created by the development; including streets, schools, police, fire, public utilities and health or medical facilities.
- (5) Conformance with the design and improvement standards and requirements set forth in § 153.190 et seq. and in any other applicable city ordinance, regulations or standards.
- (6) Conformance with applicable state regulations.
- (7) Provisions for the continuity of public services and access to adjoining lands.

(D) Public hearing and notice required. Neither an outline development plan or a tentative plan for a proposed subdivision or PUD may be approved unless the Planning Commission first advertises and holds a public hearing thereon. Notice of the hearing shall, at a minimum, be provided as required by this chapter for a conditional use type II.

(Ord. 1057, passed 3-24-98)

**§ 153.160 LAND PARTITIONINGS.**

(A) Applicability of regulations. As defined in this section and this chapter, all land partitionings within the city, except as set forth in division (B) of this section, must be approved by the city as provided for in this section.

(B) Definitions. For the purposes of this section and this chapter, the words and phrases shall have the meaning set forth herein.

PARTITIONING. To divide a lot, parcel or tract of land into two or three lots or parcels with a calendar year, but does not include the following.

(a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of a cemetery lot.

(b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created, and where the existing unit of land reduced in size by the adjustment complies with the applicable zoning.

(c) The division of land resulting from the recording of a subdivision or condominium plat.

(d) The sale of a lot in a recorded subdivision or town plat, even though the developer, owner or seller of the lot may have owned other contiguous lots or property prior to the sale; the lot, however, must be sold as platted and recorded.

MINOR PARTITIONING. A partitioning where each lot or parcel created has access to an existing public road, street, highway or way; that is, a partitioning that does not include the creation of a new road or street for access to one or more of the lots or parcels being created. For the purposes of this definition and this definition only, an easement for access of more than 100 feet in length shall be considered a street or road.

MAJOR PARTITIONING. A partitioning where a new street or road is created for access to one or more of the parcels created by the partitioning.

SERIES PARTITIONING. A series of partitions, major or minor, of a tract of land resulting in the creation of four or more parcels over a period of more than one calendar year.

(C) Exemptions. In addition to those exclusions set forth in division (B) of this section, the following land divisions shall be exempt from the land partitioning requirements set forth by this section and this chapter.

(1) The partitioning of a tract of land in which not more than one parcel is created and the parcel is being transferred to a public or semi-public agency for the purpose of a public road, street, canal or utility right-of-way, or for public park, school, recreation facility, trail, bikeway, natural area or other similar public purpose.

(2) The transfer of one parcel between two adjoining ownerships where an additional parcel is not created and where no new or additional dwellings or other structures are involved, and where the existing ownership reduced in size by the transfer is not reduced below the minimum lot size of the applicable zone. A final map of a boundary adjustment is still required however, and the requirements of the map are set forth in § 153.161.

(D) Filing procedures and requirements. Any person proposing a land partitioning, or the authorized agent or representative thereof, shall prepare and submit

ten copies of the tentative plan for the proposed partitioning, together with the prescribed application form and required filing fee, to the City Planning Official.

(1) Proposed partitioning shall be drawn. The tentative plan of a proposed partitioning shall be drawn on a sheet 18 by 24 inches in size or multiples thereof at a scale of one inch equals 50 feet or multiples thereof. A copy of the proposed partitioning shall also be provided on a sheet measuring 8½ inches by 11 inches or 11 inches by 17 inches for public review and notice requirements.

(2) Requirements for the plan. The plan shall include the following.

(a) A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, properties and land use patterns.

(b) A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel and the names, right-of-way widths and improvement standards of existing roads.

(c) Names and addresses of the land owner, the partitioner, the mortgagee if applicable, and the land surveyor employed (or to be employed) to make necessary surveys and prepare the final partitioning map.

(d) A statement regarding provisions for water supply, sewage disposal, solid waste disposal, fire protection, access, utilities and the like.

(e) North point, scale and date of map and the property identification by tax lot, map number, section, township and range, subdivision lot and block or other legal description.

(f) Statement regarding past, present and proposed use of the parcel(s) to be created, or the use for which the parcel(s) is to be created.

(3) Minor partitioning. Within ten days of the receipt of an application and tentative plan for a minor partitioning, the Planning Official shall take action to either approve the application as submitted, approve with modifications or conditions, or deny the application; or, the Planning Official may refer the subject application to the Planning Commission for review and action thereon.

(4) Major partitioning. An application and tentative plan for a major partitioning shall be referred to the Planning Commission for review and action within 30 days of the receipt thereof by the Planning Official. The Planning Commission may approve the application as submitted, approve with modifications or conditions or deny the application.

(5) Series partitioning. Any division of land resulting in a series partitioning shall be approved by the Planning Commission. Applications for any partitionings shall be made and processed in the same manner as a major partitioning. Approval requirements shall be the same as for any partitioning, however, the Commission shall deny any such partitioning when it is determined that the partitionings are done for the purpose of circumventing applicable subdivision regulations.

(6) Final partitioning map procedures. In addition to the procedures required for city approval of a final map for a partitioning, other required processing procedures are set forth in § 153.162.

(E) Requirements for approval-partitionings. No partitioning shall be approved unless the following requirements are met. (O.R.S. 92.090)

(1) The proposal is in compliance with the city's Comprehensive Plan and the applicable zoning regulations.

(2) Each parcel is suited for the use intended or to be offered, including but not limited to sewage disposal, water supply, guaranteed access and utilities.

(3) All public services deemed necessary are reasonably available or are proposed to be provided by the partitioner.

(4) Proposal will not have identifiable adverse impacts on adjoining or area land uses, public services and facilities, resource carrying capacities or on any significant resources.

(F) Survey and improvement requirements. In the approval of any land partitioning, the need for a survey, and the need for street and other public facility improvements shall be considered and such may be required as a condition of approval. Any survey and/or improvement requirements that may be required for a subdivision or other land development may be required for a partitioning, including bonding or other assurance of compliance.

(G) Final map requirements. Within 180 days of the approval of a partitioning, the partitioner shall have prepared and submitted to the City Planning Official a final partitioning map prepared by a licensed surveyor and any other materials or documents required by the approval.

(1) The final map shall provide a certificate for approval of the subject partitioning by the Planning Official. The final map shall also contain a certificate for execution by the County Tax Collector and a certificate for execution by the County Assessor. The final map shall first be submitted to and approved by the County Surveyor prior to obtaining the required signatures.

(2) Upon approval, the petitioner shall file the original map with the County Clerk, the true and exact copy with the County Surveyor and not less than six copies of the recorded plat and a computer file of the plat with the City Recorder, City Planning Official or County Surveyor. The County Surveyor may request an additional number of copies required at the time of final plat review if deemed appropriate.

(3) A final partitioning map prepared for this purpose shall comply with the recording requirements applicable to a final plat for a subdivision.

(H) Partitioning for financial purposes.

(1) Upon application to the City Planning Director, the person may grant a special permit authorizing creation of a security interest or leasehold in a parcel of land. A filing fee as may be established by the City Council shall be required.

(2) Permits issued under the authority of this division (H) shall be subject to the following limitations and restrictions.

(a) A parcel possessed by a person under the terms of a lease or a security interest, and the remaining parcels, must remain in the legal use(s) that the parcels were at the time the interest become possessory; except as may be the basis of the security interest, no additional structure or improvement may be added to any parcel by the authority of the permit authorized pursuant to this division (H).

(b) A permit authorized by this division (H) shall only be valid for the time of the lease or the life of the security interest; except when there is a default and foreclosure upon a security interest.

(c) At the end of the life of the security interest, if there is no default or foreclosure, or in the case of leaseholds at the end of the lease, the parcels shall



be rejoined into a contiguous unit of land under one ownership and, if possible, shall be reunited or combined into a single tax lot. The owner of the property shall be in violation of this chapter if he has not, within 30 days of the permit becoming void, made written application to the County Assessor for the combination of the parcels into a single tax lot.

(3) A permit issued pursuant to the provisions of this division (H) shall be immediately void if the owner of the property attempts any transfer of the subject parcels, except as provided by the terms of the permit.

(Ord. 1057, passed 3-24-98)

**§ 153.161 FINAL MAP RECORDATION-BOUNDARY LINE ADJUSTMENT.**

(A) The final map for a boundary line adjustment survey shall comply with the requirements of O.R.S. Chs. 92 and 209, and the original plat shall be prepared on double matte four mil minimum thickness mylar. An exact copy of the original plat shall be prepared and submitted along with the original plat and shall be made with permanent black india type ink or silver halide permanent photocopy on 4 mil minimum mylar. The surveyor shall certify that the photocopy or tracing is an exact copy of the original plat.

(B) The original plat and an exact copy shall be submitted to and approved by the City Planning Director. The approval shall be evidenced by signature on both the original and exact copy.

(C) The original plat and exact copy shall be submitted along with the appropriate recording fee to the County Surveyor for recording into the county survey records.

(D) The original plat and exact copy shall then be submitted along with the appropriate recording fee to the County Clerk for recording into the County Clerk's records.

(E) After recording information is placed on the exact copy by the County Clerk, the exact copy and the required number of points, a minimum of six copies, unless otherwise specified by the County Surveyor at the time of survey recording, shall then be submitted to the County Surveyor to complete the recording process.

(F) After recording information is placed on the exact copy, a minimum of three copies shall then be submitted to the City Planning Director, together with a copy of the computer file of the final map on a 3.5-inch computer disk in a format compatible with the city's computer mapping system.

(Ord. 1057, passed 3-24-98)

**§ 153.162 PROCESSING AND RECORDING PROCEDURES; SUBDIVISION AND PARTITIONING MAPS.**

(A) Submit one reproducible paper, vellum or mylar map copy to the County Surveyor.

(B) Submit closure sheets for the surveyor's certificate and a closure sheet for each lot or parcel created, and a closure sheet for dedicated areas such as roadways or public facility lots.

(C) Submit the required County Surveyor review fee as appropriate for the subdivision or partition.

(D) Submit a title report for the subdivision.

(E) Submit a post-monumentation certificate stating the intent and completion date and a bonding estimate for all subdivision plats proposed for post-monumentation. The bonding estimate is to be 120% of the estimated actual costs, office and field.

(F) After preliminary initial review of the plat, resubmit the final plat prepared on double matte four mil minimum thickness mylar, with corrections made, to the County Surveyor for final approval and signature.

(G) Remaining approval signatures shall then be executed and the final maps and an exact copy thereof submitted to the County Surveyor for recording into the survey records prior to submittal to the County Clerk for recording. The exact copy shall comply with the requirements of O.R.S. Ch. 92 and other applicable statutes and be submitted on four mil thickness mylar.

(H) The County Surveyor recording fee shall be submitted with the final plat along with any required post-monumentation bond or letter executed by the City Attorney that the bonding requirements are met.

(I) The plat shall then be submitted to the County Clerk along with the required recording fee. After recording information is placed on the exact copy by the County Clerk, the exact copy and the required number of prints showing the recording information shall be submitted to the County Surveyor to complete the process. The number of prints required shall be twelve for a subdivision plat and six prints for a partition unless a greater number is requested by the County Surveyor at initial review.

(J) A minimum of six copies of the exact copy of the final plat showing the recording information shall also be submitted to the City Planning Director, together with a computer file of the plat on a 3.5-inch computer disk in a format compatible with the city's computer mapping system.

(Ord. 1057, passed 3-24-98)

## **DEDICATION OF STREETS NOT PART OF DEVELOPMENT**

### **§ 153.175 APPLICATION.**

Any person desiring to create a street or road not part of a subdivision, PUD, partitioning or other land development shall make written application to the City Planning Department. The application shall be made on prescribed forms and shall be accompanied by the required information and applicable filing fee.

(Ord. 1057, passed 3-24-98)

### **§ 153.176 MINIMUM DESIGN STANDARDS.**

The minimum standards of design and improvement for the dedication of a street or road not part of a land development shall be the same as set forth in this chapter for streets or roads within a land development unless approved otherwise by the city. The street or road shall also be in compliance with other applicable street standard regulations of the city, county or state.

(Ord. 1057, passed 3-24-98)

### **§ 153.177 PROCEDURES.**

(A) Upon receipt of a written application, together with other required information and the appropriate filing fee, the Planning Director shall refer the proposal to the City Street Superintendent for review and recommendation. A copy of the application shall also be referred to the Planning Commission for review and recommendation at the first regularly scheduled meeting following receipt of the

application; referral to the Commission shall be accomplished at least five working days prior to a meeting.

(B) Where the proposed road or street provides access to a county road and/or a state highway, the necessary permits for such access from the appropriate agency(ies) shall be obtained prior to city approval of the road or street.

(C) The Planning Commission and City Street Superintendent shall report their findings to the Planning Director, and shall give their recommendations concerning the proposed dedication and the improvements. The Commission shall also recommend a functional classification for the proposed street or road.

(D) Upon receipt of written findings and recommendations from the Commission and Street Superintendent, the Planning Director shall submit the proposal to the City Council for review and decision. The submission shall be made at least five working days prior to a regularly scheduled Council meeting.

(E) Upon preliminary approval by the City Council, the engineering and improvements design of the street or roadway shall be prepared and submitted to the City Street Superintendent for review and approval. The engineering and improvements design shall be prepared and signed by a licensed engineer or surveyor, and shall be in compliance with applicable city standards and regulations.

(F) Following approval of the roadway engineering and design, the applicant shall prepare a warranty deed dedicating the street or road to the public and an improvement guarantee. The documents shall be submitted to the City Attorney for review and approval.

(G) Following receipt of the approvals set forth in divisions (E) and (F) of this section, the deed and improvements guarantee shall be submitted to the City Council for final approval.

(Ord. 1057, passed 3-24-98)

## **DESIGN AND IMPROVEMENT STANDARDS/REQUIREMENTS**

### **§ 153.190 COMPLIANCE REQUIRED.**

Any land division or development and the improvements required therefor, whether by subdivision, PUD, partitioning, creation of a street or other right-of-way, zoning approval or other land development requiring approval pursuant to the provisions of this chapter, shall be in compliance with the design and improvement standards and requirements set forth in this subchapter, in any other applicable provisions of this chapter, in any other provisions of any other applicable city ordinance, in any applicable provisions of county ordinances or regulations or in any applicable state statutes or administrative rules.

(Ord. 1057, passed 3-24-98)

### **§ 153.191 LOTS AND BLOCKS.**

(A) Blocks. The resulting or proposed length, width and shape of blocks shall take into account the requirements for adequate building lot sizes, street widths, access needs and topographical limitations.

(1) No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street, or unless topography or the location of adjoining streets justifies an exception, and is so approved by the reviewing authority.

(2) The recommended minimum length of a block along an arterial street is 1,800 feet.

(3) A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception; a standard exception is a block in which the building lots have rear yards fronting on an arterial or collector street.

(B) Lots. The resulting or proposed size, width shape and orientation of building lots shall be appropriate for the type of development, and consistent with the applicable zoning and topographical conditions.

(C) Access. Each resulting or proposed lot or parcel shall abut upon a public street, other than an alley, for a width of at least 50 feet except as otherwise approved by the city for lots fronting on a curvilinear street or cul-de-sac, but in no case shall a width of less than 35 feet be approved.

(D) Side lot lines. The side lines of lots and parcels, as far as practicable, shall run at right angles to the street upon which they front; except that on curved streets they shall be radial to the curve.

(E) Division by boundary, ROW and drainage ways. No lot or parcel shall be divided by the boundary line of the city, county or other taxing or service district, or by the right-of-way of a street, utility line or drainage way, or by an easement for utilities or other services, except as approved otherwise.

(F) Grading, cutting and filling of building lots or sites. Grading, cutting and filling of building lots or sites shall conform to the following standards unless physical conditions warrant other standards as demonstrated by a licensed engineer or geologist, and that the documentation justifying such other standards shall be set forth in writing thereby.

(1) Lot elevations may not be altered to more than an average of three feet from the natural pre-existing grade or contour unless approved otherwise by the city.

(2) Cut slopes shall not exceed one foot vertically to one and one-half feet horizontally.

(3) Fill slopes shall not exceed one foot vertically to two feet horizontally.

(4) Where grading, cutting or filling is proposed or necessary in excess of the foregoing standards, a site investigation by a registered geologist or engineer shall be prepared and submitted to the city as a part of the tentative plan application.

(a) The report shall demonstrate construction feasibility, and the geologist or engineer shall attest to such feasibility and shall certify an opinion that construction on the cut or fill will not be hazardous to the development of the property or to surrounding properties.

(b) The Planning Commission shall hold a public hearing on the matter in conformance with the requirements for a type II conditional use permit, however, such may be included within the initial hearing process on the proposed development.

(c) The Planning Commission's decision on the proposal shall be based on the following considerations.

1. That based on the geologist's or engineer's report, that construction on the cut or fill will not be hazardous or detrimental to development of the property or to surrounding properties.

2. That construction on such a cut or fill will not adversely affect the views of adjacent property(ies) over and above the subject site without land alteration, or that modifications to the design and/or placement of the proposed structure will minimize the adverse impact.

3. That the proposed grading and/or filling will not have an adverse impact on the drainage on adjacent properties, or other properties down slope.

4. That the characteristics of soil to be used for fill, and the characteristics of lots made usable by fill shall be suitable for the use intended.

(G) Through or double-frontage lots and parcels. Through or double-frontage lots and parcels are to be avoided whenever possible, except where they are essential to provide separation of residential development from major traffic arterials or collectors and from adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. When through or double-frontage lots or parcels are desirable or deemed necessary, a planting screen easement of at least four to six feet in width, and across which there shall be no right of vehicular access, may be required along the line of building sites abutting such a traffic way or other incompatible uses.

(H) Special building setback lines. If special building setback lines, in addition to those required by the applicable zoning, are to be established in a development, they shall be shown on the final plat of the development and included in the deed restrictions.

(I) Large building lots; redivision. In the case where lots or parcels are of a size and shape that future redivision is likely or possible, the Commission may require that the blocks be of a size and shape so that they may be redivided into building sites, and the development approval and site restrictions may require provisions for the extension and opening of streets at intervals which will permit a subsequent redivision of any tract of land into lots or parcels of smaller sizes than originally platted.

(Ord. 1057, passed 3-24-98)

#### **§ 153.192 EASEMENTS.**

(A) Utility lines. Easements for sewer lines, water mains, electric lines or other public utilities shall be as required by the serving entity, but in no case be less than 12 feet wide and centered on a rear and/or side lot line unless approved otherwise by the city. Utility pole tie-back easements may be reduced to six feet in width.

(B) Water courses. If a tract is traversed by a water course, such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further widths as deemed necessary.

(C) Pedestrian and bicycle ways. When desirable for public convenience, a pedestrian and/or bicycle way of not less than four feet in width may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block, or to otherwise provide appropriate circulation and to facilitate pedestrian and bicycle traffic as an alternative mode of transportation.

(D) Sewer and water lines. Easements may also be required for sewer and water lines, and if so required, shall be provided for as stipulated to by the City Department of Public Works.

(Ord. 1057, passed 3-24-98)

**§ 153.193 LAND FOR PUBLIC PURPOSES.**

(A) If the city has an interest in acquiring a portion of a proposed development for a public purpose, or if the city has been advised of the interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the city may require that portion of the development be reserved for public acquisition for a period not to exceed one year.

(B) Within a development, or adjacent to a development in contiguous property owned by the developer, a parcel of land of not more than 5% of the gross area of the development may be required to be set aside and dedicated to the public for parks and recreation purposes by the developer. The parcel of land, if required, shall be determined to be suitable for the park and/or recreation purpose(s) intended, and the city may require the development of the land for the park or recreation use intended or identified as a need within the community.

(C) In the event no such area is available that is found to be suitable for parks and/or recreation uses, the developer may be required, in lieu of setting aside land to pay to the appropriate parks and recreation agency a sum of money equal to the market value of the area required for dedication, plus the additional funds necessary for the development thereof if so required; if such is required, the money may only be utilized for capital improvements by the appropriate parks and recreation agency.

(D) If there is a systems development charge in effect for parks, the foregoing land and development or money dedication (if required) may be provided for in lieu of an equal value of systems development charge assessment if so approved by the collecting agency in accordance with the applicable provisions of the SDC ordinance. If the collecting agency will not permit the land or money dedication in lieu of an applicable systems development charge, then the land and development or money dedication shall not be required.

(E) If the nature and design, or approval, of a development is such that over 30% of the tract of land to be developed is dedicated to public uses such as streets, water or sewer system facilities and the like, then the requirements of this division (E) shall be reduced so that the total obligation of the developer to the public does not exceed 35%.

(Ord. 1057, passed 3-24-98)

**§ 153.194 STREETS AND OTHER PUBLIC FACILITIES.**

(A) Duties of developer. It shall be the responsibility of the developer to construct all streets, curbs, sidewalks, sanitary sewers, storm sewers, water mains, electric, telephone and cable television lines necessary to serve the use or development in accordance with the specifications of the city and/or the serving entity.

(B) Undergrounding of utility lines. All electrical, telephone or other utility lines shall be underground unless otherwise approved by the city.

(C) Location, width, and grade of streets. The location, width and grade of streets shall be considered in their relationship to existing and planned streets, to topographical conditions, to public convenience and safety and to the proposed use or development to be served thereby.

(D) Traffic circulation system. The overall street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves

appropriate for the traffic to be carried considering the terrain of the development and the area.

(E) Street location and pattern. The proposed street location and pattern shall be shown on the development plan, and the arrangement of streets shall:

- (1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- (2) Conform to a plan for the general area of the development approved by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical; and
- (3) Conform to the adopted urban area transportation system plan as may be amended.

(F) Minimum right-of-way and roadway widths. Unless otherwise approved in the tentative development plan, street, sidewalk and bike rights-of-way and surfacing widths shall not be less than the minimum widths in feet set forth in the following table, and shall be constructed in conformance with applicable standards and specifications set forth by the city.

Street Classification	Minimum ROW	Minimum Width	Minimum Roadway Width
One-way major arterial (2 lanes w/parking & bike lane)	70 ft.	46 ft.	
Two-way major arterial (5 lanes w/bike lanes)	80-100 ft.	50-74 ft.	74 ft.
Minor arterial (3-5 lanes w/bike lanes)	60-70 ft.	40-50 ft.	
Collector (2 lanes w/bike lanes)	40-50 ft.	32-40 ft.	
Local residential Cul-de-sacs	50 ft.	45 ft.	
Radius f/cul-de-sac turn around	40-50 ft.	40 ft.	
Alleys	16 ft.	16 ft.	
Sidewalks	6-12 ft.	4-12 ft.	
Bikeways	4-8 ft.	4-8 ft.	

(G) Alignment. All streets, as far as practicable, shall be in alignment with existing streets by continuations of the center lines thereof. Necessary staggered street alignment resulting in intersections shall, wherever possible, leave a minimum distance of 200 feet between the center lines of streets of approximately the same direction, and in no case shall the off-set be less than 100 feet.

(H) Future street extensions. Where necessary to give access to or permit future subdivision or development of adjoining land, streets shall be extended to the boundary of the proposed development or subdivision.

(I) Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practicable, and in no case shall an acute angle be less than 80 degrees unless there is a special intersection design approved by the Superintendent of Streets, the City Engineer as applicable, the City Planning Commission and the City Council. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection, and the intersection of more than two streets at any one point will not be approved.

(J) Inadequate existing streets. Whenever existing streets, adjacent to, within a tract or providing access to and/or from a tract, are of inadequate width and/or improvement standards, additional right-of-way and/or improvements to the existing streets may be required.

(K) Cul-de-sacs. A cul-de-sac shall terminate with a circular turn around with a minimum radius of 45 feet of paved driving surface and a 50-60 foot right-of-way.

(L) Marginal access streets. Where a land development abuts or contains an existing or proposed arterial street, the city may require marginal access streets, reverse frontage lots with suitable depth, screen-plantings contained in a non-access reservation strip along the rear or side property line or other treatments deemed necessary for adequate protection of residential properties and the intended functions of the bordering street, and to afford separation of through and local traffic.

(M) Streets adjacent to railroad or canal right-of-way. Whenever a proposed land development contains or is adjacent to a railroad or main canal right-of-way, provisions may be required for a street approximately parallel to the ROW at a distance suitable for the appropriate use of land between the street and the ROW. The distance shall be determined with consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting or other separation requirements along the ROW.

(N) Reserve Strips. Reserve strips or street plugs controlling access to streets will not be approved unless deemed necessary for the protection of public safety and welfare and may be used in the case of a dead-end street planned for future extension, and in the case of a half street planned for future development as a standard, full street.

(O) Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of a proposed land development, and when the Commission or other reviewing authority finds it will be practical to require dedication and improvement of the other half of the street when the adjoining property is developed. Whenever a half street exists adjacent to a tract of land proposed for development, the other half of the street shall be dedicated and improved.

(P) Curves. Centerline radii of curves should not be less than 500 feet on major arterials, 300 feet on minor arterials, 200 feet on collectors or 100 feet on other streets and shall be on an even ten feet. Where existing conditions, particularly topography, make it otherwise impractical to provide building sites, the Commission may accept steeper grades and sharper curves than provided for herein in this division (P).

(Q) Street grades. Street grades shall not exceed 8% on arterials, 10% on collectors and 12% on all other streets including private driveways entering upon a public street or highway; however, for streets at intersections, and for driveways entering upon a public street or highway, there should be a distance of three or more car lengths (approximately 50 feet) where the grade should not exceed 6% to provide for proper stopping distance during inclement weather conditions.

(R) Street names. Except for the extension of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street in the city or within a radius of six miles of the city or within the boundaries of a special service district such as fire or ambulance.



(S) Street name signs. Street name signs shall be installed at all street intersections by the developer in accordance with applicable city, county or state requirements. One street sign shall be provided at the intersection of each street, and two street signs shall be provided at four-way intersections.

(T) Traffic control signs. Traffic control signs shall be provided for and installed by the developer as required and approved by the appropriate city, county and/or state agency or department.

(U) Alleys. Alleys are not necessary in residential developments, but should and may be required in commercial and industrial developments unless other permanent provisions for access to off-street parking and loading facilities are approved by the city.

(V) Curbs. Curbs shall be required on all streets in all developments, and shall be installed by the developer in accordance with standards set forth by the city unless otherwise approved by the city.

(W) Sidewalks. Unless otherwise required in this chapter or other city ordinances or other regulations, or as otherwise approved by the Commission, sidewalks shall be required as set forth hereinafter. In lieu of these requirements, however, the Commission may approve a development without sidewalks if alternative pedestrian routes and facilities are provided. In the case of developments having a residential density of two DU's per acre or less, sidewalks may not be required provided there is evidence that there will not be any special pedestrian activity along the streets involved.

(1) Local residential streets. For streets classified as local residential streets, sidewalks of not less than four feet in width (five feet preferred) may be required on both sides of the street, and shall be required on at least one side of the street.

(2) Collector streets. For streets classified as collector streets, sidewalks shall be provided for on each side of the street and shall be a minimum of five feet in width in residential areas and eight feet in width in commercial areas unless otherwise provided for in the applicable zone.

(3) Arterial streets. For streets classified as arterial streets, sidewalks shall be provided for on each side of the street and shall be a minimum of five feet in width in residential areas and eight feet in width in commercial areas unless otherwise provided for in the applicable zone.

(X) Bike lanes. Unless otherwise required in this chapter or other city ordinances or other regulations, bike lanes shall be required as follows, except that the Planning Commission may approve a development without bike lanes if it is found that the requirement is not appropriate to or necessary for the extension of bicycle routes, existing or planned, and may also approve a development without bike lanes in the streets if alternative bicycle routes and facilities are provided.

(1) Local residential streets. Bike lanes may be required on local residential streets, and if required shall not be less than four feet in width (five feet preferred) for one-way lanes and eight feet in width for two-way lanes.

(2) Collector streets. Bike lanes may be required on both sides of collector streets, and if required shall not be less than four feet in width (five feet preferred) for one-way lanes and eight feet in width for two-way lanes.

(3) Arterial streets. Bike lanes may be required on both sides of arterial streets, and if required shall not be less than six feet in width.

(Y) Street lights. Street lights may be required and, if so required, shall be installed by the developer in accordance with standards set forth by the city and the serving utility company.

(Z) Utilities. The developer shall make necessary arrangements with the serving utility companies for the installation of all proposed or required utilities, which may include electrical power, natural gas, telephone, cable television and the like.

(AA) Drainage facilities. Drainage facilities shall be provided as required by the city in accordance with city standards.

(Ord. 1057, passed 3-24-98)

**§ 153.195 ACCESS MANAGEMENT.**

(A) General. Access management restrictions and limitations consist of provisions managing the number of access points and/or providing traffic and facility improvements that are designed to maximize the intended function of a particular street, road or highway. The intent is to achieve a balanced, comprehensive program which provides reasonable access as new development occurs while maintaining the safety and efficiency of traffic movement.

(B) Access management techniques and considerations. In the review of all new development, the reviewing authority shall consider the following techniques or considerations in providing for or restricting access to certain transportation facilities.

(1) Access points to arterials and collectors may be restricted through the use of the following techniques.

(a) Restricting spacing between access points based on the type of development and the speed along the serving collector or arterial.

(b) Sharing of access points between adjacent properties and developments.

(c) Providing access via a local order of street; for example, using a collector for access to an arterial, and using a local street for access to a collector.

(d) Constructing frontage or marginal access roads to separate local traffic from through traffic.

(e) Providing service drives to prevent spill-over of vehicle queues onto adjoining roadways.

(2) Consideration of the following traffic and facility improvements for access management.

(a) Providing of acceleration, deceleration and right-turn-only lanes.

(b) Offsetting driveways to produce T-intersections to minimize the number of conflict points between traffic using the driveways and through traffic.

(c) Installation of median barriers to control conflicts associated with left turn movements.

(d) Installing side barriers to the property along the serving arterial or collector to restrict access width to a minimum.

(C) General access management guidelines. In the review and approval of new developments, the reviewing authority shall consider the following guidelines.

(1) Minimum spacing between driveways and/or streets:

Major arterial 500 feet

Minor arterial 300 feet  
Collector 50 feet  
Local streets access to each lot

(2) Minimum spacing between street intersections:

Major arterial 1/4 mile  
Minor arterial 600 feet  
Collector 300 feet  
Local streets 300 feet

(D) Special access management guidelines. In the review and approval of new developments proposing access to certain identified highways, the reviewing authority shall consider the following guidelines.

(1) Minimum spacing between driveways and/or streets.

West Hwy 126 to  
intersection w/ Hwy 26 500 feet  
3rd/4th Sts. west "Y" to  
Knowledge St. 150 feet  
Hwy 26 Knowledge St. to  
East UGB bndry 500 feet  
Hwy 26 west UGB to  
west "Y" (Madras Hwy) 300 feet  
Paulina Hwy/SE UGB to  
Combs Flat Road 150 feet  
O'Neil Hwy/west UGB to  
Hwy 126 150 feet  
McKay-N.Main/north UGB to  
10th St. 150 feet  
Main Street from 10th St. to  
Lynn. Blvd. 150 feet  
Hwy 27 from Lynn Blvd. to  
south UGB 150 feet

(2) Minimum spacing between street intersections.

West Hwy 126 to  
intersection w/Hwy 26 1/4 mile  
3rd/4th Sts. west "Y" to  
Knowledge St. 300 feet  
Hwy 26 Knowledge St. to  
East UGB bndry 1/4 mile  
Hwy 26 west UGB to  
west "Y" (Madras Hwy) 1/4 mile  
Paulina Hwy/SE UGB to  
Combs Flat Road 500 feet  
O'Neil Hwy/west UGB to  
Hwy 126 500 feet  
McKay-N.Main/north UGB to  
10th St. 500 feet  
Main Street from 10th St. to

Lynn Blvd. 300 feet  
Hwy 27 from Lynn Blvd. to  
south UGB: 500 feet

(Ord. 1057, passed 3-24-98)

#### **§ 153.196 IMPROVEMENT PROCEDURES.**

Improvements to be installed by the subdivider, either as a requirement of this chapter, conditions of approval or at the developer's option as proposed as a part of the subject development proposal, shall conform to the following requirements.

(A) Plan review and approval. Improvement work shall not be commenced until plans therefor have been reviewed and approved by the city or a designated representative thereof. The review and approval shall be at the expense of the developer.

(B) Modification. Improvement work shall not commence until after the city has been notified and approval therefor has been granted, and if work is discontinued for any reason, it shall not be resumed until after the city is notified and approval thereof granted.

(C) Improvements as platted. Improvements shall be designed, installed and constructed as platted and approved, and plans therefor shall be filed with the final plat at the time of recordation or as otherwise required by the city.

(D) Inspection. Improvement work shall be constructed under the inspection and approval of an inspector designated by the city, and the expenses incurred therefor shall be borne by the developer. The city, through the inspector, may require changes in typical sections and details of improvements if unusual or special conditions arise during construction to warrant such changes in the public interest.

(E) Utilities. Underground utilities, including, but not limited to electric power, telephone, water mains, water service crossings, sanitary sewers and storm drains, to be installed in streets shall be constructed by the developer prior to the surfacing of the streets.

(F) As built plans. As built plans for all public improvements shall be prepared and completed by a licensed engineer and filed with the city upon the completion of all such improvements. A copy of the as built plans shall be filed with the final plat of a subdivision or other development by and at the cost of the developer. The plans shall be completed and duly filed within 30 days of the completion of the improvements.

(G) Certificate for improvements. A certificate shall be set forth on the final plat of subdivisions and PUD's by the developer's engineer certifying that the design standards for all improvements have been met as approved by the city.

(Ord. 1057, passed 3-24-98)

#### **§ 153.197 COMPLETION OR ASSURANCE OF IMPROVEMENTS.**

(A) Agreement for improvements. Prior to final plat approval for a subdivision, partitioning, PUD or other land development, or the final approval of a land use or development pursuant to applicable zoning provisions, the owner and/or developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or shall execute and file with the city an agreement between him/herself and the city specifying the period in which improvements and repairs shall be completed and providing that, if the work is not

completed within the period specified, that the city may complete the work and recover the full costs thereof, together with court costs and attorney costs necessary to collect the amounts from the developer. The agreement shall also provide for payment to the city for the cost of inspection and other engineer services directly attributed to the project.

(B) Bond or other performance assurance. The developer shall file with the agreement, to assure his/her full and faithful performance thereof, one of the following, pursuant to approval of the City Attorney and City Manager, and approval and acceptance by the City Council.

(1) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.

(2) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability to proceed in accordance with the agreement.

(3) Cash deposit.

(4) Such other security as may be approved and deemed necessary by the City Council to adequately assure completion of the required improvements.

(C) Amount of security required. The assurance of full and faithful performance shall be for a sum approved by the city as sufficient to cover the cost of the improvements and repairs, including related engineering, inspection and other incidental expenses, plus an additional 20% for contingencies.

(D) Default status. If a developer fails to carry out provisions of the agreement, and the city has unreimbursed costs or expenses resulting from the failure, the city shall call on the bond or other assurance for reimbursement of the costs or expenses. If the amount of the bond or other assurance deposit exceeds costs and expenses incurred by the city, it shall release the remainder. If the amount of the bond or other assurance is less than the costs or expenses incurred by the city, the developer shall be liable to the city for the difference plus any attorney fees and costs incurred.

(Ord. 1057, passed 3-24-98)

#### **§ 153.198 BUILDING AND OCCUPANCY PERMITS.**

(A) Building permits. No building permits shall be issued upon lots to receive and be served by sanitary, sewer and water service and streets as improvements required pursuant to this chapter unless the improvements are in place, serviceable and approved by the city, and the service connections fees therefor are paid, or all such cost and improvements are bonded for or otherwise assured as set forth by § 153.197 and accepted by the City Council.

(B) Sale or occupancy. All improvements required pursuant to this chapter and other applicable regulations or approval conditions shall be completed, in service and approved by the city, or be bonded for or otherwise assured as set forth by § 153.197 and accepted by the city prior to sale or occupancy of any lot, parcel or building unit erected upon a lot within the subdivision, partitioning, PUD or other development.

(Ord. 1057, passed 3-24-98)

#### **§ 153.199 MAINTENANCE SURETY BOND.**

Prior to sale and occupancy of any lot, parcel or building unit erected upon a lot within a subdivision, partitioning, PUD or other development, and as a condition of acceptance of improvements, the City Council may require a one-year maintenance

surety bond in an amount not to exceed 20% of the value of all improvements, to guarantee maintenance and performance for a period of not less than one year from the date of acceptance.

(Ord. 1057, passed 3-24-98)

**§ 153.200 ENGINEERING/SPECIAL SERVICES FOR REVIEW.**

In regards to any development proposal for which the city deems it necessary to contract for engineering and/or other special technical services for the review thereof or for the design of facility expansions to serve the development, the developer may be required to pay all or part of the special services. In such cases, the choice of the contract service provider shall be at the discretion of the city, and the service provider shall perform the necessary services at the direction of the city. The costs for the services shall be determined reasonable, and an estimate of the costs shall be provided to the developer prior to contracting therefor.

(Ord. 1057, passed 3-24-98)

**VARIANCES**

**§ 153.210 AUTHORIZATION TO GRANT OR DENY.**

(A) Variances from the provisions and requirements of this chapter may be approved in accordance with the provisions of this subchapter where it can be shown that, owing to special and unusual circumstances related to a specific lot, parcel or tract of land, strict application of certain provisions of this chapter would cause an undue or unnecessary hardship.

(B) No variance shall be granted that would allow the use of property for a purpose not authorized within the zone in which the proposed use or development is located.

(C) In granting a variance, conditions may be attached that are found necessary to protect the best interests of the adjoining or surrounding properties or the vicinity, and to otherwise achieve the purposes of this chapter, the specific applicable zoning and the objectives and policies of the city's Comprehensive Plan.

(Ord. 1057, passed 3-24-98)

**§ 153.211 CIRCUMSTANCES FOR GRANTING VARIANCES.**

A variance may be granted unqualifiedly, or may be granted subject to prescribed conditions and limitations, provided that the following findings are evident.

(A) That the literal application of specific provisions of the chapter would create practical difficulties for the applicant resulting in greater private expense than public benefit, however, a variance is not to be granted simply because it would afford the owner a higher profit or prevent a mere inconvenience.

(B) That the condition creating the difficulty is not general throughout the surrounding area, but is unique to the applicant's site or property; therefore, the granting of the requested variance will not set a precedent for future applications.

(C) That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the specific restriction or provision at the time the site was purchased. Self-created hardship also results when an owner and/or developer negligently or knowingly violates a provision of this chapter. A substandard

lot, deliberately made so by the owner's conveyance, is considered a self-created hardship. Violations made in good faith, or circumstances arising from pre-existing

conditions or circumstances are treated more leniently, as is the condition of an area deficiency created by the expansion of a public right-of-way, public utility easement or other public use in the public interest.

(D) In the case of a use variance, that the literal application of specific provisions of the chapter would result in an unnecessary hardship to the applicant and/or property owner. An unnecessary hardship will be found when there is no reasonable use of or return from the property as it may lawfully be used under the applicable provisions of this chapter.

(Ord. 1057, passed 3-24-98)

#### **§ 153.212 MINOR VARIANCES.**

For the purposes of this chapter, a MINOR VARIANCE is an area or dimensional variance that meets one of the following conditions. Only one such variance may be granted for any one lot, parcel or tract of land.

(A) Is a variance request involving a deviation from a minimum lot size requirement of not more than 10%.

(B) Is a variance request involving a deviation from a yard or setback requirement of not more than 25%.

(C) Involves a request for the expansion of a nonconforming use by not more than 10%.

(Ord. 1057, passed 3-24-98)

#### **§ 153.213 APPLICATION FOR A VARIANCE.**

An application for a variance/ compensation under this subchapter shall be filed with the City's Planning Department on a completed application form established by the Department. An application shall include at least the following information, to the extent such information may be required as a condition of acceptance of filing of an application under Oregon Constitution Article 1, Section 18, subsections (a) through (f):

(A) A legal description of the private real property as to which the owner is applying for a variance/compensation, including the common address and either a legal metes and bounds description or a Crook County Assessor's description of the property;

(B) The name, address and telephone number of each owner of and security interest holder in the private real property, together with the signature of the owner making the application;

(C) A copy of the recorded deed transferring the ownership of the private real property to the owner.

(D) A title report, current within 30 days prior to the application date, verifying the owner's or owners' ownership of the private real property and documenting the date on which the owner or owners acquired ownership;

(E) Each parcel of land owned by the owner or owners of the private real property, as to which the owner is applying for compensation, that is either directly contiguous to the private real property or is indirectly contiguous through contiguity with another parcel under the same ownership that itself is directly or indirectly contiguous, together with the following:

(1) The date of acquisition of each such directly or indirectly contiguous parcel;

(2) Information showing the extent to which the owner has treated the private real property, as to which the owner is applying for compensation, and the

directly or indirectly contiguous parcels as a single, economic unit for example in the purchase and financing of the land and in the owner's or owners' development of and economic planning for the land; and

(3) Information showing the extent to which application of the subject regulation to the private real property, as to which the owner is applying for compensation, enhances the value of the contiguous or indirectly contiguous parcels of land.

(F) A copy of the specific regulation as to which the owner is applying for a variance/compensation, including the date the regulation was adopted, first enforced, or applied.

(G) A copy of the regulation in existence, and applicable to the private real property, immediately before the regulation that was imposed and allegedly restricts the use of the private real property and caused a reduction in fair market value.

(H) The manner in which, and the extent to which, the regulation restricts the use of the private real property as to which the owner is applying for a variance/compensation;

(I) Two appraisals of the private real property as to which the owner is applying for a variance/compensation, prepared by a person certified or licensed under Oregon law to perform an appraisal of the private real property, stating the appraiser's opinion of the fair market value of the private real property before application of the regulation and the evidence on which the appraiser's opinion is based; and an appraisal of the same private real property stating the appraiser's opinion of the fair market value of the private real property after application of the regulation and the evidence on which the appraiser's opinion is based.

(J) The amount the owner claims as compensation under Oregon Constitution Article I, Section 18, subsections (a) through (f) in the event a variance from the regulation is not granted. An application also shall include an application fee, in the amount established by resolution of the City Council, to at least partially cover the city's cost of processing the application, to the extent an application fee may be required as a condition of acceptance of filing of an application under Oregon Constitution Article 1, Section 18, subsections (a) through (f). The City shall refund the application fee if it is determined by the city or by a court that the applicant is entitled to compensation under Oregon Constitution Article 1, Section 18, subsections (a) through (f). (Ord. 1057, passed 3-24-98; Am. Ord. 1087, passed 11-28-00)

#### **§ 153.214 APPLICATION COMPLETENESS AND ACCEPTANCE FOR FILING.**

An application shall not be deemed filed with the city until it is complete in accord with the provisions of § 153.213 of this subchapter. Within 15 days following tender of an application under § 153.213 of this subchapter, the Planning Director shall review the application to determine whether it is complete and ready for filing.

Thereafter:

(A) If the Department determines the application is not complete, it shall, within that 15-day period, inform the applying owner in writing of the additional information necessary to make the application complete and ready for filing. The application shall be deemed complete and filed as of the date of receipt of the additional information. If the Department believes there is doubt, under Oregon Constitution



Article I, Section 18, subsections (a) through (f), as to whether the additional information can be required as a condition of acceptance of filing of the application, the Department also may inform the applying owner in writing that although the Department considers the application not complete and ready for filing, the Department nevertheless will proceed to process the application if the additional information is not supplied by a date set by the Department.

(B) If the Department determines the application is complete as initially filed, or if it fails to notify the applying owner of the application's incompleteness within the required 15-day period, then the application shall be deemed complete and filed as of the date of its tender to the Department.

(Ord. 1087, passed 11-28-00)

### **§ 153.215 DEPARTMENT REVIEW OF APPLICATION AND REPORT TO CITY COUNCIL.**

The Department of Planning and Community Development following filing of a complete application for a variance/compensation under this subchapter and consideration of the information included in the application and any other evidence obtained or received by the Department, shall determine whether a variance is necessary to avoid the owner's being entitled to compensation under Oregon Constitution Article I, Section 18, subsections (a) through (f), and if so the extent of the variance needed to avoid the owner's being entitled to such compensation and the amount of compensation to which the owner would be entitled without a variance. If the Department determines that a variance is needed to avoid the owner's being entitled to compensation, the Department shall compare the public benefits from application of the regulation to the owner's private real property to the public burden of paying the required compensation to the owner if a variance is not granted, taking into consideration the financial resources of the city for the payment of such claims. Based on this comparison, the Department shall prepare a written report to the City Council stating its determinations and the evidence on which they are based; and, if the Department has determined that a variance is needed to avoid the owner's being entitled to compensation, making a recommendation either to grant a variance that will avoid the owner's being entitled to compensation, grant a variance that will not avoid but will reduce the compensation to which the owner is entitled and pay the reduced compensation, or deny a variance and pay the compensation to which the owner is entitled. The Department shall provide the written report to the City Council. For purposes of Article 9 of the City's Zoning Ordinance, the Department's preparation and provision of the written report shall not be considered an administrative action.

(Ord. 1087, passed 11-28-00)

### **§ 153.216 PROCEDURES FOR ACTION ON VARIANCES.**

The procedure for taking action on an application for a variance shall be as follows.

(A) Minor variance. An application for a minor variance may be approved by the City Planning Official in accordance with the following provisions.

(1) Upon receipt of an application for a minor variance, the Planning Official shall mail a notice of the subject application to all property owners within 100 feet of the subject property within five working days of the receipt thereof.

(2) The notice shall provide an opportunity for objections and comments relative thereto, and shall provide a minimum period of not less than seven

days for the response. A copy of the notice shall also be sent to the applicant, each member of the City Planning Commission, the City Superintendents of Public Works and Streets and any other identified affected parties.

(3) Following conclusion of the response period, if no objections to the subject application have been received, the Planning Official may approve, approve with modifications and/or conditions, deny or refer the application to the Planning Commission for public hearing.

(4) If one or more objections are received, the subject application shall be referred to the Commission for public hearing.

(5) Whatever action is rendered by the Planning Official shall be made within five working days following the end of the response period, and a copy of the action shall be mailed or otherwise delivered to the applicant and all participating parties.

(6) The Planning Official shall only grant the variance request if the applicant provides clear evidence of a practical difficulty or unnecessary hardship.

(B) Variances for Commission action. Before the Planning Commission may act on any variance request, the Commission shall conduct a public hearing in the matter thereof in accordance with the following requirements.

(1) Upon receipt of an application for a variance, including a minor variance referred by the Planning Official, notice of a public hearing shall be sent to the applicant and all property owners within 100 feet of the subject property as the names and addresses thereof are shown on the last available County Assessor's assessment roll. Failure of a person to receive the notice shall not invalidate any proceedings in connection with the subject application. The notice shall be mailed or otherwise delivered not less than 21 days prior to the hearing date.

(2) In addition to the individual mailed notices, a notice of the hearing shall be published one time in a newspaper of general circulation in the city not less than ten days prior to the date of the hearing.

(3) Following the hearing on the subject application, the Commission may approve, approve with modifications and/or conditions or deny the application. The Planning Official shall provide written notice of the Commission's decision to the applicant, all participating affected parties and any persons specifically requesting the notice within five working days of the Commission's decision thereon.

(Ord. 1057, passed 3-24-98)

#### **§ 153.217 TIME LIMIT FOR VARIANCES.**

Authorization of a variance shall be null and void after one year unless substantial construction or compliance has taken place or the proposed use has occurred. The Commission may grant an extension of time not to exceed six months, upon request. A request for an extension shall be duly filed with the city prior to the expiration of the initial one-year period, and only one such extension may be granted.

(Ord. 1057, passed 3-24-98)

#### **§ 153.218 SCHEDULING AND NOTICE OF CITY COUNCIL HEARING.**

At or about the time of the Department's providing the written report prepared under § 153.215 to the City Council, the City Manager shall schedule a City Council public hearing on the application for variance/compensation. In addition, the Department of Planning and Community Development shall give notice of the public hearing and in its discretion may give additional notice of the public hearing as follows:

(A) The Department shall mail written notice of the public hearing, at least ten days in advance of the initial hearing date, to the applying owner and any other owners of the private real property as to which the owner is applying for a variance/compensation; to the owners of record of property within 100 feet from the exterior boundary of the private real property as to which the owner is applying for compensation as reflected on the most recent property tax assessment roll; and to any neighborhood or community organization recognized by the City Council and whose boundaries include the private real property as to which the owner is applying for compensation.

(B) The notice mailed under division (A) of this section shall contain the following information:

(1) The City Council will be holding a public hearing to determine whether an owner of private real property is entitled under Oregon Constitution Article 1, Section 18, subsections (a) through (f) to receive either compensation or a variance from a city regulation and, if so, to determine whether to pay compensation or grant a variance;

(2) The date, time, and place of the City Council public hearing,

(3) The name of the applying owner;

(4) The common address or other easily understood geographical reference to the private real property as to which the owner is applying for a variance/compensation and a map showing its location;

(5) The regulation in relation to which the owner is applying for a variance/compensation;

(6) The amount of compensation claimed by the owner if a variance is not granted;

(7) The possibility that the City Council, following the public hearing, will grant the owner a variance from the regulation in relation to which the owner is applying for a variance/compensation, rather than paying the amount of claimed compensation. The City Council's decision will be based on: (1) a determination whether the applying owner is or will be entitled to compensation under Oregon Constitution Article 1, Section 18, subsections (a) through (f) unless the city grants a variance from the regulation; and, if so, (2) a comparison of the public benefits from application of the regulation to the owner's private real property to the public burden of paying the required compensation to the owner if a variance is not granted, taking into consideration the financial resources of the city for the payment of such claims;

(8) The name of the city representative to contact and the telephone number where additional information may be obtained;

(9) A copy of the application, all documents and evidence relied on by the applying owner, and the Planning Department's report to the City Council are available for inspection at no cost and will be provided at a reasonable cost;

(10) Written testimony may be submitted to the Planning Department at any time prior to the hearing for inclusion in the hearing record and also may be submitted at the hearing, and oral testimony may be given at the hearing.

(11) It is not certain whether an action of the City Council under this subchapter is subject to appeal to the Land Use Board of Appeals or to any other appeal tribunal. However, if any person has the right to appeal an action of the City Council under this subchapter, the failure of an issue to be raised in the hearing before the City Council, through written or oral testimony, in a manner sufficient to afford the City

Council the opportunity to respond to the issue, will preclude an appeal to the Land Use Board of Appeals or another appropriate appeal tribunal based on that issue.

(C) In addition, the Department, in its discretion, may publish the notice described in division (B) of this section in a newspaper of general circulation in the city and may give notice by such other means as the Department deems appropriate. The failure of the Department to give notice as provided in this section, or the failure of any person to receive notice given under this section, shall not invalidate any action of the City Council under this chapter.

(Ord. 1087, passed 11-28-00)

**§ 153.219 CITY COUNCIL HEARING AND ACTION.**

(A) Hearings. The City Council shall hold a public hearing on the application for a variance/compensation. The hearing shall be legislative in nature. At the close of the hearing, the City Council: (1) shall determine whether the applying owner is or will be entitled to compensation under Oregon Constitution Article 1, Section 18, subsections (a) through (f) unless the city grants a variance from the regulation and if so; (2) shall compare the public benefits from application of the regulation to the owner's private real property to the public burden of paying the required compensation to the owner if a variance is not granted, taking into consideration the financial resources of the city for the payment of such claims. If the City Council has determined that either compensation or a variance is required, then based on this comparison:

(1) If the City Council finds that the public burden of paying the required compensation, taking into consideration the city's financial resources for the payment of such claims, is sufficient to justify sacrificing the public benefits from application of the regulation to the owner's private real property, the City Council shall grant a variance from the specified regulation to the extent necessary to avoid the owner's being entitled to compensation;

(2) If the City Council finds that the public benefits from application of the regulation to the owner's private real property are sufficient to justify the public burden of paying the required compensation, taking into consideration the city's financial resources for the payment of such claims, the City Council shall deny a variance from the specified regulation and the city shall pay the required compensation;

(3) If the City Council finds that some of the public benefits from application of the regulation to the owner's private real property are sufficient to justify the public burden of paying some of the required compensation, taking into consideration the city's financial resources for the payment of such claims, but that other of the public benefits are not sufficient to justify the public burden of paying the balance of the required compensation, taking into consideration the city's financial resources for the payment of such claims, the City Council shall grant a variance to the limited extent necessary to avoid the owner's being entitled to compensation as to that part of the specified regulation providing public benefits not sufficient to justify the public burden of paying compensation and the city shall pay the required compensation as to that part of the specified regulation as to which a variance is not granted. The City Council's decision shall be by a written order that shall include the findings and conclusions based on which the City Council has made its decision and, if the City Council has determined that a variance should be granted or compensation should be paid, or both, the extent of the variance granted or of the amount of the compensation to be paid, or both.

(B) Attorney fees. If an owner commences suit or action to collect compensation under Article 1, Section 18 of the Oregon Constitution and the city is the prevailing party in such action, then city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees.

(Ord. 1087, passed 11-28-00)

**§ 153.220 CONDITIONS BASED ON FUTURE COURT DECISIONS.**

If the City Council grants a variance or limited variance as a means to avoid having to compensate, or as a means to limit compensation to, an owner or owners under Oregon Constitution Article I, Section 18, subsections (a) through (h), and if, based on an appellate court interpretation or invalidation of Oregon Constitution Article 1, Section 18, subsections (a) through (h), in the same or another case, the applying owner was not entitled to compensation in relation to the regulation from which the variance was granted, then the variance or limited variance shall be deemed to have been invalid and ineffective as of and after the date of the City Council's order granting the variance or limited variance. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the city being required to compensate the owner under Oregon Constitution Article I, Section 18, subsections (a) through (f). Any city payment of compensation to an owner under this subchapter shall be conditional on the owner's signing an agreement that if an appellate court interprets or invalidates Oregon Constitution Article 1, Section 18, subsections (a) through (h), in the same or another case, in a manner such that the applying owner was not entitled to compensation in relation to the subject regulation, then the owner will repay the compensation received by the owner to the city.

(Ord. 1087, passed 11-28-00)

**§ 153.221 NOTICE OF CITY COUNCIL DECISION.**

The Department of Planning and Community Development shall mail a copy of the City Council's written order to the applying owner and to all other persons who submitted written or oral testimony at the City Council hearing. The failure of the Department to give notice as provided in this subchapter, or the failure of any person to receive notice given under this subchapter, shall not invalidate any action of the City Council under this chapter.

(Ord. 1087, passed 11-28-00)

**§ 153.222 EXTENT OF VARIANCE IN CASE OF COURT REVIEW.**

If the City Council has taken an action under § 153.219 and the owner nevertheless files a court action seeking compensation in the case of § 153.219(A), or additional compensation in the case of § 153.219(B) or (C), from the city in relation to the specified regulation as it affects the owner's private real property, and if a final court decision determines that the extent of the variance specified as being granted by the City Council was not sufficient to avoid the owner's being entitled to compensation or additional compensation, then the extent of variance granted by the city shall be deemed to be the extent of variance necessary to avoid the owner's being entitled to compensation or additional compensation, effective as of the date of the City Council's decision.

(Ord. 1087, passed 11-28-00)

**§ 153.223 TERMINATION OF VARIANCE.**

Any variance granted under this subchapter automatically shall terminate on the occurrence of an event following which any owner or future of the private real property that is the subject of the variance will not be entitled to compensation under Oregon

Constitution Article 1, Section 18, subsections (a) through (h) in relation to the regulation from which the variance was granted.

(Ord. 1087, passed 11-28-00)

## **AMENDMENTS**

### **§ 153.230 AUTHORIZATION TO INITIATE AMENDMENTS.**

An amendment to the text of this chapter or to a zoning map may be initiated by the City Council, by the City Planning Commission, by the City Planning Official, by any planning advisory committees duly appointed by the city, by any planning board established by this chapter or by an application of a property owner or the authorized agent thereof.

(Ord. 1057, passed 3-24-98)

### **§ 153.231 APPLICATION FOR AMENDMENTS.**

An application for an amendment to the text of this chapter or for a zone change by a property owner or the authorized agent thereof shall be filed with the City Planning Official on forms prescribed by the city and shall be accompanied by the required filing fee as established by the City Council. The application shall be filed not less than 30 days prior to the date of the Commission hearing thereon. The applicant shall provide reasons for the requested change, and shall present facts showing that the amendment will substantially be in compliance with the goals, objectives and policies of the City Comprehensive Plan and with the applicable statewide planning goals and implementing administrative rules.

(Ord. 1057, passed 3-24-98)

### **§ 153.232 PUBLIC HEARINGS ON AMENDMENTS.**

The City Planning Commission shall, at its earliest practicable meeting date following the 30 day filing period, duly advertise and conduct a public hearing on the subject amendment application, and shall, within five working days of the conclusion of the hearing, recommend to the City Council approval, disapproval or modified approval of the proposed amendment. Within 30 days of receipt of the Commission's recommendations, the City Council shall duly advertise and conduct a public hearing on the proposed amendment. The Council shall approve, approve with modifications or disapprove the proposed amendment. The Commission or Council may recess or continue a hearing in order to obtain additional information and input on a subject proposed amendment. (O.R.S. 227.175 (3) and (5))

(Ord. 1057, passed 3-24-98)

### **§ 153.233 PUBLIC NOTICE REQUIREMENTS.**

Notwithstanding any other public notice requirements that may be set forth in this chapter or by applicable state statutes or administrative rules, the following public notice requirements shall apply to applications for an amendment to the text of this chapter or to an application for a zoning amendment provided for by this subchapter. (O.R.S. 227.1175(3) and (5))

(A) Each notice of a public hearing regarding an amendment to the text of this chapter or to a zoning map shall be published once a week for each of the two successive weeks prior to the date of the hearing in a newspaper of general circulation in the city.

(B) In addition to the notice requirements set forth by division (A) of this section, for an amendment that proposes to rezone property, individual notice shall be mailed or otherwise delivered to the owner of each lot or parcel of property that is

proposed to be rezoned. If such rezoning is for a single lot or parcel, notice shall also be mailed to all property owners within 250 feet of the exterior boundaries of the subject property.

(C) Notice of an application for a zone change shall be provided to the owner of a public use airport if the property subject to the zone change is as follows.

(1) Within 5,000 feet of the side or end of a runway of a visual airport;

or

(2) Within 10,000 feet of the side or end of the runway of an instrument airport; and

(3) If the zone change would allow a structure greater than 35 feet in height on property located inside the runway approach surface. (O.R.S. 227.175(6))

(D) Notice of an application for a zone change of property which includes all or part of a mobile or manufactured home park shall be given by first class mail to each existing mailing address for tenants of the mobile home park at least 20 days but not more than 40 days before the date of the first hearing. (O.R.S. 227.175(8))

(E) Notice of an application for a proposed zoning amendment, together with a copy or description of the proposed amendment, shall be provided to the State Land Conservation and Development Commission (LCDC) at least 45 days prior to the date of the final hearing thereon. (O.R.S. 197)

(Ord. 1057, passed 3-24-98)

#### **§ 153.234 RECORDS OF AMENDMENTS.**

The duly approved and signed original and a copy thereof of an amendment to the text or zoning map(s) of this chapter shall be maintained without change on file in the office of the City Recorder. As applicable, a certified true copy thereof shall be maintained in the office of the City Planning Official. Copies of the amendments shall be available for public review and information.

(Ord. 1057, passed 3-24-98)

#### **§ 153.235 LIMITATIONS ON REAPPLICATIONS.**

No reapplication for an amendment to the text of this chapter or to a zoning map by a property owner shall be considered by the Planning Commission or Council within a six month period immediately following a previous denial of the application. However, if in the opinion of the Planning Commission, new evidence or a change in circumstances warrants the reapplication in a lesser time, the Commission may permit a new application.

(Ord. 1057, passed 3-24-98)

#### **§ 153.236 ADOPTION OF AN AMENDMENT.**

An amendment to the text of this chapter or a zoning map shall be approved by ordinance only.

(Ord. 1057, passed 3-24-98)

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 153.250 INTRODUCTION AND DEFINITIONS**

##### **153.250.010. Introduction and application.**

- A. Section 153.250 is enacted to provide a uniform procedure for the grant or denial and processing of applications, approvals and determinations by the Planning Department of the City of Prineville, under the applicable Comprehensive plan, land use regulations and

other ordinances which by their terms incorporate by reference the procedures in this title.

B. The provisions of Section 153.250 do not apply to the issuance, suspension, or revocation of any on-site sewage disposal, building, electrical or plumbing permits except as they relate to Planning Department consideration of permitted uses.

**153.250.020. Definitions.**

The following definitions apply to Section 153.250.

"Argument" means assertions and analysis by a party regarding the satisfaction or violation of legal standards. "Argument" does not include assertion of facts not already in the record. "De novo review" means a hearing by the review body as if the action had not previously been heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration will be considered a part of the record on review.

"Development action" means the review of any permit, authorization or determination that the City of Prineville Planning Department is requested to issue, give or make that either:

A. Involves the application of a City zoning ordinance and is not a land use action as defined below; or

B. Involves the application of standards in other portion of the Land Usage Ordinance (Section 150 -152). For illustrative purposes, the term "development action" includes review of any lot line adjustment, permit extension, sign permit, setback determination, and lot coverage determination.

"Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed to be relevant to the decision.

"Land use action" includes any consideration for approval of a quasi-judicial plan amendment or zone change, any consideration for approval of a land use permit, and any consideration of a request for a declaratory ruling (including resolution of any procedural questions raised in any of these actions). For illustrative purposes, the term "land use action" includes review of conditional use permit, variance, partition, subdivision, site plan review and other applications which require the exercise of discretion or policy judgment in applying and/or interpreting applicable criteria.

"Land use permit" includes any approval of a proposed development of land under the standards in the City zoning ordinances involving the exercise of significant discretion in applying those standards. By way of illustration, "land use permit" includes review of conditional use permits, partition, master plan, site plan, site plan change of use, modification of approval subdivision, and subdivision variance and variance.

"Legislative changes" generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, zoning ordinances, or changes in zoning maps not directed at a small number of property owners.



"Modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site lay out (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

"Quasi-judicial" zone change or plan amendment generally refers to a plan amendment or zone change affecting a single or limited group of property owners and that involves the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case

law on the subject.)

(Ord. 1057, passed 3-24-98; Am. Ord. 1104, passed 5-13-03, Am. Ord. 1137, passed 11-26-2006)

## **§153.251 GENERAL PROVISIONS**

### **153.251.005 Pre-application conference**

### **153.251.010 Application requirements**

### **153.251.020 Acceptance of application**

### **153.251.030 Incomplete applications**

### **153.251.040 Withdrawal of application**

### **153.251.050 Time computation**

### **153.251.060 Submission of documents**

#### **153.251.005 Pre-application conference**

A pre-application conference is encouraged for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use ordinances, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning ordinance or land division ordinance and to identify issues likely to arise in processing an application. The applicable zoning ordinance may require that a pre-application conference be held for particular types of applications.

#### **153.251.010 Application requirements**

A. Property Owner. For the purposes of this section, the term "property owner" shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.

B. Applications for development or land use actions shall:

1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
2. Be completed on a form prescribed by the City;
3. Include supporting information required by the zoning ordinance and that information necessary to demonstrate compliance with applicable criteria (burden of proof); and
4. Be accompanied by the appropriate filing fee, unless such fees are waived by the City Council.

**153.251.020 Acceptance of application**

- A. Development action and land use action applications shall not be accepted until the Planning Director has determined that (1) the requirements of 153.251.10 have been met and (2) the application is complete or the application is deemed to be complete under state law.
- B. An application is complete when in the judgment of the Planning Director all applicable issues have been adequately addressed in the application.
- C. Acceptance of an application as complete shall not preclude a determination at a later date that additional criteria need to be addressed or a later determination that additional information is needed to adequately address applicable criteria.

**153.251.030 Incomplete applications**

- A. If an application is incomplete, the planning director shall, within 30 days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend his application or submit a new application supplying the missing information.
- B. The applicant shall have 30 days from the date of notice from the planning director to supply the missing information.
- C. If an applicant does not submit the missing information within the 30-day period specified in 153.251.030(B), the application may be processed in accordance with 153.254.040.

**153.251.040 Withdrawal of application**

An applicant may withdraw an application in writing at any time prior to the time a land use action decision becomes final. If the landowner is not the applicant, no consent to withdraw the application is needed from the landowner.

Refunds for withdrawn applications shall be determined from the following schedule;

- A. Refund request after file is made prior to acceptance of an application as complete and/or prior to the mailing of transmittals or public notice. 75%

- B. Refund after public notice or transmittals have been sent. 50%
- C. No refund shall be allowed after the preparation of a Decision or Staff Report.

**153.251.050 Time computation**

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the City is not open for business pursuant to a county ordinance, in which case it shall also be excluded.

**153.251.060 Submission of documents**

A document is "submitted" when it is received. Submittal shall be made either at a noticed hearing or at the offices of the Planning Division, unless specified otherwise by the Hearings Body or notice.

**§153.252 LEGISLATIVE PROCEDURES**

- 153.252.010 Hearing required**
- 153.252.020 Notice**
- 153.252.030 Initiation of legislative changes**
- 153.252.040 Hearings Body**
- 153.252.050 Final decision**

**153.252.010 Hearing required.**

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the City Council. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

**153.252.020 Notice**

1. Notice of a legislative change shall be published in a newspaper of general circulation public hearing.
2. The notice shall state the time and place of the hearing and contain a statement ordinance under consideration.

- B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.
- C. Individual Notice. Individual notice to property owners, as defined in 153.251.010(A), Planning Director, except as required by ORS 215.503

### **153.252.030 Initiation of legislative changes**

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the City Council or the Planning Commission.

### **153.252.040 Hearings body**

A. The following shall serve as hearing or review body for legislative changes in this order:

1. The Planning Commission.
2. City Council.

B. Any legislative change initiated by the City Council shall be reviewed by the Planning Commission prior to action being taken by the City Council.

### **153.252.050 Final decision**

All legislative changes shall be adopted by ordinance.

## **§153.253 DEVELOPMENT ACTION PROCEDURES**

### **153.253.010 Review of development action applications**

### **153.253.020 Decision**

#### **152.253.010 Review of development action applications.**

A. A development action application may be handled administratively by the Planning Director without public notice or hearing.

B. The Planning Director has the discretion to determine that for the purposes of the land usage ordinance whether a development action application should be treated as if it were a land use action application.

#### **152.254.020 Decision.**

A. Development action applications acted upon without notice or hearing shall be approved or denied by the Planning Director or his designee within 30 days of the application's acceptance by the Planning Director.

B. Notice of a decision shall be provided to the applicant or the applicant's representative.

C. The decision may be appealed under 153.258.

## **§153.254 REVIEW OF LAND USE ACTION APPLICATIONS**

### **153.254.010 Effect of determinations made outside of established processes**

### **153.254.020 Action on land use action applications**

### **153.254.030 Administrative land use decisions with prior notice**

### **153.254.040 Administrative decision without prior notice**

### **153.254.050 Final action in land use actions**

### **153.254.060 Supplementation of application within first 30 days of submittal**

### **153.254.070 Modification of application**

**153.254.010. Effect of determinations made outside of established processes.**

Any informal interpretation or determination, or any statement describing the uses to which a property may be put, made outside the declaratory ruling process (City of Prineville Land Development Ordinance, Section 153.260) or outside the process for approval or denial of a land use permit (153.254 – 153.256) shall be deemed to be a supposition only. Such informal interpretations, determinations, or statements shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

**153.254.020. Action on land use action applications.**

A. Except for comprehensive plan amendments and zone changes and other instances where a hearing is required by state law or by other ordinance provisions, the Planning Director may decide upon a land use action application administratively either with prior notice, as prescribed under 153.254.030 or without prior notice, as prescribed under 153.254.040 or he/she may refer the application to the Planning Commission for hearing. The Planning Director shall take such action within 30 days of the date the application is accepted or deemed accepted as complete. This time limit may be waived at the option of the applicant.

B. The Planning Director's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appealable decision.

C. Zone change and plan amendment applications shall be referred to a hearing before the Planning Commission.

**153.254.030. Administrative land use decisions with prior notice.**

A. Notice of the application shall be sent within 10 days of submittal of the application to persons entitled to notice under 153.255.030. Such notice shall include all the information specified under 153.255.040(A) except for the information specified in 153.255.040(A)(7) and (10).

B. Any person may comment in writing on the application within 10 days from the date notice was mailed or a longer period as specified in the notice.

C. The Planning Director's decision to approve, deny or send to a hearing shall be made within 30 days after an application is accepted as complete. This time limit may be waived by the written consent of the applicant.

D. Notice of the Planning Director's decision and the appeal period shall be sent to all persons entitled to notice under 153.255.030 and to all persons who commented. The notice shall contain the applicable information required under 153.255.040.

E. The applicant, all persons entitled to notice under 153.255.030 and all other persons commenting as provided in 153.254.020 constitute parties to the administrative decision. Any party can appeal the decision in accordance with 153.258 (Appeals).

**153.254.040. Administrative decision without prior notice.**

The procedures for administrative decisions without prior notice shall be the same as those set forth in 153.254.030, except that no prior notice shall be given.

**153.254.050. Final action in land use actions.**

A. Except as otherwise provided, the City shall take final action, including consideration of appeals to the City Council, in land use actions within 120 days after the application is deemed complete.

B. If the applicant refuses or fails to submit missing information within the 30 days specified in 153.251.030, the application shall be deemed complete, for purposes of processing the application, on the 31st day after the application was first submitted, and final action of City Council, if required, shall be taken within one hundred fifty-one (151) days after the application was first received unless otherwise provided..

C. The periods set forth in 153.254.050 during which a final decision on an application must be made may be extended for a reasonable period of time at the written request of the applicant.

**153.254.060. Supplementation of application within first 30 days of submittal.**

An applicant shall not submit any evidence to supplement its application during the 30 days following submittal of its application, except to respond to a request for additional information made under DCC 153.251.030. Any evidence submitted by an applicant in violation of 153.254.060 will not be considered in determining whether the application is complete and will be returned to the applicant.

**153.254.070. Modification of application.**

A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of 153.254.060 and this section.

B. The Planning Director or Planning Commission shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in 153.250) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day time clock as of the date the modification is submitted. The 120-day time clock for an application, as modified, may be restarted as many times as there are modifications.

C. The Planning Director or Planning Commission may require that the application be re-noticed and additional hearings be held.

D. Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Planning Commission shall make such determinations. The Planning Director or Planning Commission determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the County on an application.

## **§153.255 LAND USE ACTION HEARINGS**

**153.255.010 Filing of staff report for hearing**

**153.255.020 Hearings Body**

**153.255.030 Notice of hearing or administrative action**

**153.255.040 Contents of notice**

**153.255.050 Burden of proof**

**153.255.060 Standing**

**153.255.070 Disclosure of ex parte contacts**

**153.255.080 Disclosure of personal knowledge**

**153.255.090 Challenge for bias, prejudgment of personal interest**

**153.255.100 Hearings procedure**

**153.255.110 Setting the hearing**

**153.255.120 Close of the record**

**153.255.130 Continuances or record extensions**

**153.255.140 Reopening the record**

### **153.255.010. Filing of staff report for hearing.**

A. At the time an application that in the judgment of the Planning Director requires a hearing is deemed complete, a hearing date shall be set.

B. A staff report shall be completed seven days prior to hearing. If the report is not completed by such time, the hearing shall be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least seven days after the date the initial staff report is complete.

C. A copy of the staff report shall be mailed to the applicant, shall be made available to such other persons who request a copy and shall be filed with the Planning Commission.

D. Oral or written modifications and additions to the staff report shall be allowed prior to or at the hearing.

**153.255.020. Hearings Body.**

- A. The following shall serve as the hearings body:
  - 1. Planning Commission.
  - 2. City Council
- B. The Hearing's Body order shall be as set forth in 153.255.020(A), except that the Council may call up an administrative decision for review without the necessity of an application going before the Planning Commission.

**153.255.030. Notice of hearing or administrative action.**

- A. Individual Mailed Notice.
  - 1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:
    - a. The applicant.
    - b. Owners of record of property as shown on the most recent property tax assessment roll of property located within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
    - c. The owner of a public use airport if the airport is located within 10,000 feet of the subject property.
    - d. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.
    - e. The Planning Commission.
    - f. Any neighborhood or community organization formally recognized by the City Council, whose boundaries include the site.
  - 2. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.
- B. Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the County at least 10 days prior to the hearing.

**153.255.040. Contents of notice.**



- A. All mailed notices of a land use action hearing shall:
1. Describe the nature of the applicant's request and the nature of the proposed uses that could be authorized.
  2. List the criteria from the zoning ordinance and the plan applicable to the application at issue.
  3. Set forth the street address or easily understood geographical reference to the subject property.
  4. State the date, time and location of any hearing or date by which written comments must be received.
  5. State that any person may comment in writing and include a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony, including, but not limited to, a party's right to request a continuance or to have the record held open.
  6. If a hearing is to be held, state that any interested person may appear.
  7. State that failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
  8. State the name of a county representative to contact and the telephone number where additional information may be obtained.
  9. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
  10. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.
- B. All mailed and published notices for hearings shall contain a statement that recipients may request a copy of the staff report.
- C. All mailed and published notices concerning applications necessitating an exception to one of the statewide land use planning goals shall state that a goal exception is proposed and shall summarize the issues in an understandable manner.

**153.255.050 Burden of proof**

Throughout all local land use proceedings, the burden of proof rests on the applicant.

**153.255.060. Standing**

A. Any interested person may appear and be heard in a land use action hearing, except that in appeals heard on the record, a person must have participated in a previous hearing on the subject application.

B. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.

**153.255.070 Disclosure of ex parte contacts**

Prior to making a decision, the Hearings Body or any member thereof shall not communicate directly or indirectly with any party or his representative in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should such communication - whether written or oral - occur, the Hearings Body member shall:

A. Publicly announce for the record the substance of such communication; and

B. Announce the parties' right to rebut the substance of the ex parte communication during the hearing.

Communication between City staff and the Hearings Body shall not be considered to be an ex parte contact.

**153.255.080. Disclosure of personal knowledge.**

A. If the Hearings Body or any member thereof uses personal knowledge acquired outside of the hearing process in rendering a decision, the Hearings Body or member thereof shall state the substance of that knowledge on the record and allow all parties the opportunity to rebut such statement on the record.

B. For the purposes of this section, a site visit by the Hearings Body shall be deemed to fall within this rule. After the site visit has concluded, the Hearings Body must disclose its observations and conclusions gained from the site visit in order to allow for rebuttal by the parties.

**153.255.090 Challenge for bias, prejudice or personal interest.**

Prior to or at the commencement of a hearing, any party may challenge the qualification of the Hearings Body, or a member thereof, for bias, prejudice or personal interest. The challenge shall be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, the

Hearings Body or the member shall disqualify itself, withdraw or make a statement on the record of its capacity to hear

**153.255.100. Hearings procedure.**

A hearing shall be conducted as follows:

A. The Hearings Body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.

B. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.

C. Any facts received, noticed or recognized outside of the hearing shall be stated for the record.

D. Challenges to the Hearings Body's qualifications to hear the matter shall be stated and challenges entertained.

E. The Hearings Body shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond precludes appeal to LUBA based on that issue.

F. Order of presentation:

1. Open the hearing.
2. Staff report.
3. Proponents' presentation.
4. Opponents' presentation.
5. Proponents' rebuttal.
6. Opponents' rebuttal may be allowed at the Hearings Body's discretion.
7. Staff comment.
8. Questions from or to the chair may be entertained at any time at the Hearings Body's discretion.
9. Close the hearing.

G. The record shall be available for public review at the hearing.

**153.255.110 Setting the hearing.**

A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the City staff, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with 153.255.130.

B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the

hearing shall not count against the 120-day time limit set forth in DCC 153.254.050.

**153.255.120 Close of the record.**

A. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.

B. If the hearing is continued or the record is held open under 153.255.130, further evidence or testimony shall be taken only in accordance with the provisions of 153.255.130.

C. Otherwise, further testimony or evidence will be allowed only if the record is reopened under 153.255.140.

D. An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the Hearings Body shall set. The Hearings Body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 120-day clock.

**153.255.130. Continuances or record extensions.**

A. Grounds.

1. Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding suspension of the 120 day clock. If a continuance request is made after the published or mailed notice has been provided by the City, the Hearings Body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.

2. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

- a. Where additional documents or evidence are submitted by any party; or
- b. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of 153.255.130(2)(a), "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

3. The grant of a continuance or record extension in any other circumstance shall be at the discretion of the Hearings Body.

B. Continuances.

1. If the Hearings Body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing.
2. An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.
3. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.

C. Leaving record open.

If at the conclusion of the hearing the Hearings Body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 14 additional days, allowing at least the first seven days for submittal of new written evidence or testimony and at least seven additional days for response to the evidence received while the record was held open. Written evidence or testimony submitted during the period the record is held open shall be limited to evidence or testimony that rebuts previously submitted evidence or testimony.

- D. A continuance or record extension granted under 153.255.130 shall be subject to the 120-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 120-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

**153.255.140. Reopening the record.**

- A. The Hearings Body may at its discretion reopen the record, either upon request or on its own initiative. The Hearings Body shall not reopen the record at the request of an applicant unless the applicant has agreed in writing to a suspension of the 120-day time limit.

B. Procedures.

1. Except as otherwise provided for in this section, the manner of testimony (whether oral or written) and time limits for testimony to be offered upon reopening of the record shall be at the discretion at the Hearings Body.
2. The Hearings Body shall give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties shall be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

## **§153.256 LAND USE ACTION DECISIONS**

- 153.256.010 Decision**
- 153.256.020 Notice of decision**
- 153.256.030 Decision on plan amendments and zone changes**
- 153.256.040 Reapplication limited**
- 153.256.050 Review by Council**
- 153.256.060 Correction of clerical errors**

### **153.256.010. Decision.**

- A. Approval or denial of a land use action shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria standards and facts set forth.
- B. Any portion of an application not addressed in a Hearings Body's decision shall be deemed to have been denied.
- C. A decision on a land use action is not final until the Planning Director or Hearings Body issues a written decision, the decision has been mailed and the appeal period to the next higher Hearings Body within the City has run.
- D. No building permit shall issue until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision for purposes of issuing building permits.

### **153.256.020. Notice of decision.**

A Hearings Body's decision shall be in writing and mailed to all parties; however, one person may be designated by the Hearings Body to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants.

### **153.256.030. Decision on plan amendments and zone changes.**

- A. Except as set forth herein, the Planning Commission when acting as the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. Prior to becoming effective, all quasi-judicial plan amendments and zone changes shall be adopted by the City Council.
- B. In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Planning Commission has authority to make a decision, the City Council shall, in the absence of an appeal or review initiated by the Council, adopt the Planning Commission decision. No argument or further testimony will be taken by the Council.

### **153.256.040. Reapplication limited.**

A. If a specific application is denied on its merits, reapplication for substantially the same proposal may be made at any time after the date of the final decision denying the initial application.

B. Notwithstanding 153.256.040(A), a final decision bars any reapplication for a nonconforming use verification or for a determination on whether an approval has been initiated.

**153.256.050. Review by Council.**

A. Review of an administrative action or a Planning Commission decision may be initiated by the City Council. The Council shall consider calling up for review any administrative decision that a majority of the Planning Commission recommends be reviewed.

B. Review by the Council shall be initiated by Council order within 12 days of the date of the mailing of the final written decision of the Planning Director or Planning Commission.

C. Review shall be conducted in the same manner provided for in appeals, except that an appeal fee and transcript shall not be required. Any Council order calling up for review a decision shall specify whether the Council will review the decision called up on the record or de novo and whether it intends to limit the issues on review to certain specified issues.

**153.256.060 Correction of clerical errors**

Upon its own motion or the motion of a party, the Council may, subject to any applicable public notice and hearing requirements, enact an ordinance correcting clerical or typographical errors in plan amendment or zone change ordinances and any maps appended thereto implementing decisions of the Planning Commission. Such changes shall be entered only if the Council is able to make a finding that the decision of the Planning Commission, including appendices, is not accurately reflected in the implementing ordinances.

**§153.257. RECONSIDERATION**

**153.257.010 Reconsideration**

**153.257.020 Procedure**

**153.257.030 Limitation on reconsideration**

**153.257.010. Reconsideration.**

A. An applicant may request that the Planning Commission decision be reconsidered as set forth. Reconsideration shall be accompanied by a fee established by the City and by applicant's written consent. The fee will not run during the period of the reconsideration.

B. Grounds for reconsideration are limited to the following instances where an alleged error substantially affects the rights of the applicant:

1. Correction of an error in a condition established by the Planning Commission where the condition is not supported by the record or is not supported by law;
2. Correction of errors that are technical or clerical in nature.

**153.257.020. Procedure.**

A. A request for reconsideration shall be filed with the Planning Director within 10 days of the date the decision was mailed. The request shall identify the alleged error in the Planning Commission decision and shall specify how the applicant would be adversely affected if the alleged error were to remain uncorrected.

B. Upon receipt of a request for reconsideration, the Planning Director shall forward the request for reconsideration to the Planning Commission and notify the other parties to the proceeding of the request and allow for a 10-day comment period on the request. At the end of the comment period, the Planning Commission shall determine whether the request for reconsideration has merit.

C. The Planning Commission shall modify the decision upon a determination that the request has merit and the alleged error substantially affects the applicant. Notice of the modification shall be sent to all parties to the proceeding. If the Planning Commission determines that no modification is warranted, a determination shall issue a decision to that effect.

D. Filing a request for a reconsideration shall not be a precondition for appealing a decision.

E. Filing a request for reconsideration stays the deadline for any party to file an appeal of the Planning Commission decision. The appeal period for all parties to the proceeding shall commence upon mailing of a modification or upon mailing a determination that a modification is not warranted. If an opponent files an appeal and an applicant has requested reconsideration, the opponent's appeal shall be stayed pending disposition of the request for modification. If the decision is not modified, the appeal will be processed in accordance with the procedures set forth in 153.258. If the decision is modified, the appellant must within 12 days of the mailing of the modified decision file in writing a statement requesting that its appeal be activated.

**153.257.030 Limitation on reconsideration**

No decision shall be reconsidered more than once by the Planning Commission.

**§153.258 APPEALS**

**153.258.010 Who may appeal**

**153.258.020 Filing appeals**

**153.258.030 Notice of appeal**

**153.258.040 Transcript requirement**

**153.258.050 Consolidation of multiple appeals**



- 153.258.060** Scope of review
- 153.258.070** Hearing on appeal
- 153.258.080** Declining review
- 153.258.090** Development action appeals
- 153.258.100** Withdrawal of an appeal

**153.258.010 Who may appeal**

A. The following may file an appeal:

1. A party;
2. In the case of an appeal of an administrative decision without prior notice, a person entitled to notice, a person adversely affected or aggrieved by the administrative decision, or any other person who has filed comments on the application with the Planning Division; and
3. A person entitled to notice and to whom no notice was mailed.

B. A person to whom notice is mailed is deemed notified even if notice is not received.

**153.258.020 Filing appeals**

A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Department and an appeal fee.

B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the City of Prineville Planning Department no later than 5:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals may not be received by facsimile machine.

C. If the City Council is the Hearings Body and the City declines review, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the City in reviewing the appeal.

D. The appeal fee shall be paid by cash or check or money order, except that local, state or federal governmental agencies may supply a purchase order at the time of filing.

**153.258.030 Notice of appeal**

The Notice of Appeal shall include:

A. A statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue in dispute.

B. If the City Council is the Hearings Body, a request for review by the Council stating the reasons why the Council should review the lower Hearings Body's decision.

C. If the City Council is the Hearings Body and de novo review is desired, a request for de novo review by the Council stating the reasons why the Council should provide de novo review as provided in DCC 153.258.060.

**153.258.040 Transcript requirement**

A. Except as otherwise provided in 153.258.040, appellants shall provide a complete transcript of any hearing appealed from, from recorded magnetic tapes provided by the Planning Department.

B. Appellants shall submit the transcript to the Planning Department no later than the close of the 5<sup>th</sup> day prior to the date set for a de novo appeal hearing, in on-the-record appeals, the date for receipt of written arguments. Unless excused under this section, an appellant's failure to provide a transcript shall cause the Council to decline to consider the appellant's appeal further and shall, upon notice mailed to the parties, cause the lower Hearings body's decision to become final.

C. An appellant shall be excused from providing a complete transcript if appellant was prevented from complying by: (1) the inability of the Planning Department to supply appellant with a magnetic tape or tapes of the prior proceeding; or (2) defects on the magnetic tape or tapes of the prior proceeding that make it not reasonably possible for applicant to supply a transcript. Appellants shall comply to the maximum extent reasonably and practicably possible.

**153.258.050 Consolidation of multiple appeals**

If more than one party files a notice of appeal on a land use action decision, the appeals shall be consolidated and noticed and heard as one proceeding.

**153.258.060 Scope of review**

A. Before Planning Commission. The review on appeal before the Planning Commission shall be de novo.

B. Before the Council.

1. Review before the City Council, if accepted, shall be on the record except as otherwise provided for in this section.

2. The Council may grant an appellant's request for a de novo review at its discretion after consideration of the following factors:

a. Whether hearing the application de novo could cause the 120-day time limit to be exceeded; and

b. If the magnetic tape of the hearing below, or a portion thereof, is unavailable due to a malfunctioning of the recording device during that hearing, whether review on the record would be hampered by the absence of a transcript of all or a portion of the hearing below; or

c. Whether the substantial rights of the parties would be significantly prejudiced without de novo review and it does not appear that the request is necessitated by failure of the appellant to present evidence that was available at the time of the previous review; or

d. Whether in its sole judgment a de novo hearing is necessary to fully and properly evaluate a significant policy issue relevant to the proposed land use action.

For the purposes of this section, if an applicant is an appellant, factor 153.258.060(B)(2)(a) shall not weigh against the appellant's request if the applicant has submitted with its notice of appeal written consent on a form approved by the City to restart the 120-day time clock as of the date of the acceptance of applicant's appeal.

3. Notwithstanding 152.258.060(B)(2), the Council may decide on its own to hear a timely filed appeal de novo.
4. The Council may, at its discretion, determine that it will limit the issues on appeal to those listed in an appellant's notice of appeal.

#### **153.258.070. Hearing on appeal.**

A. The appellant and all other parties to the decision below shall be mailed notice of the hearing on appeal at least 10 days prior to any de novo hearing or deadline for submission of written arguments.

B. Except as otherwise provided in 153.258, the appeal shall be heard as provided in 153.255. The applicant shall proceed first in all de novo appeals.

C. The order of Hearings Body shall be as provided in 153.255.020.

D. The record of the proceeding from which appeal is taken shall be a part of the record on appeal.

E. The record for a review on the record shall consist of the following:

1. A written transcript of any prior hearing;
2. All written and graphic materials that were part of the record below;
3. The Hearings Body decision appealed from;
4. Written arguments, based upon the record developed below, submitted by any party to the decision;
5. Written comments submitted by the Planning Commission or individual planning commissioners, based upon the record developed below; and
6. A staff report and staff comment based on the record. No oral evidence, argument or comment other than staff comment based on the record shall be taken. The Board shall not consider any new factual information.

#### **153.258.080 Declining Review**

Except as set forth in 153.256.030, when there is an appeal of a land use action and the City Council is the Hearings Body:

- A. The Council may on a case-by-case basis, at a public meeting, determine that the decision of the lower Hearings Body of an individual land use action or a class of land use action decisions, shall be the final decision of the City.
- B. If the City Council decides that the lower Hearings Body decision shall be the final decision of the City, then the Council shall not hear the appeal and the party appealing may continue the appeal as provided by law. In such a case, the City shall provide written notice of its decision to all parties. The decision on the land use application becomes final upon mailing of the Council's decision to decline review.
- C. The decision of the City Council not to hear a land use action appeal is entirely discretionary.
- D. In determining whether to hear an appeal, the City Council may consider only:
  - 1. The record developed before the lower Hearings Body;
  - 2. The notice of appeal; and
  - 3. Recommendations of staff.

#### **153.258.090 Development Action appeals**

Notice of the hearing date set for appeal shall be sent only to the applicant. Only the applicant, his or her representatives, and his or her witnesses shall be entitled to participate. Continuances shall be at the discretion of the Hearings Body, and the record shall close at the end of the hearing.

#### **153.258.100 Withdrawal of an appeal**

An appeal may be withdrawn in writing by an appellant at any time prior to the rendering of a final decision. Subject to the existence of other appeals on the same application, in such event the appeal proceedings shall terminate as of the date the withdrawal is received.

### **§153.259 LIMITATIONS ON APPROVALS**

- 153.259.010 Expiration of approval**
- 153.259.020 Initiation of use**
- 153.259.030 Modification of approval**
- 153.259.040 Transfer of permit**
- 153.259.050 Revocation of approvals**

#### **153.259.010. Expiration of approval.**

- A. Scope.

1. Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under the City of Prineville Land Development Ordinance and the various zoning ordinances administered by City of Prineville.

2. 153.259.010 does not apply to:

a. Those determinations made by declaratory ruling or expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of the zoning ordinance. Such determinations, whether favorable or not to the applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.

b. Quasi-judicial map changes.

B. Duration of Approvals.

1. Except as otherwise provided under this section or under applicable zoning ordinance provisions, a land use permit is void one year after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.

2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after one year from the date of preliminary approval, unless the final plat has been submitted to the Planning Department for final approval within that time period, or an extension is sought under 153.259.010(C), or the preliminary plat or master plan approval has been initiated as defined herein.

3. In cases of a land use approval authorized under applicable approval criteria to be completed in phases, each phase must be initiated within one year of completion of the prior phase, if no timetable is specified.

C. Extensions.

1. The Planning Director may grant one extension of up to one year for a land use approval or a phase of a land use approval, regardless of whether the applicable criteria have changed, if:

a. An applicant makes a written request for an extension of the development approval period;

b. The request, along with the appropriate fee, is submitted to the City prior to the expiration of the approval period;

c. The applicant states reasons that prevented the applicant from beginning or continuing development or meeting conditions of approval within the approval period; and

d. The City determines that the applicant was unable to begin or continue development or meet conditions of approval during the approval period for reasons for which the applicant was not responsible, including, but not limited to, delay by a state or federal agency in issuing a required permit.

2. Up to two additional one-year extensions, may be granted under the above criteria by the Planning Director or his/her designees where applicable criteria for the decision have not changed.

D. Procedures.

1. A determination of whether a land use has been initiated shall be processed as a declaratory ruling.

2. Approval of an extension granted under DCC 153.259.010(c) is an administrative decision, is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision and shall be processed under 153.250 as a development action, except to the extent it is necessary to determine whether the use has been initiated.

E. Effect of Appeals. The time period set forth in 153.259.010(B) shall be tolled upon filing of an appeal to LUBA until all appeals are resolved.

**153.259.020 Initiation of use**

A. For the purposes of this section, development action undertaken under a land use approval described in 153.259.010, has been "initiated" if it is determined that:

1. The proposed use has lawfully occurred;
2. Substantial construction toward completion of the land use approval has taken place; or
3. Where construction is not required by the approval, the conditions of a permit or approval have been substantially exercised and any failure to fully comply with the conditions is not the fault of the applicant.

B. For the purposes of this section, "substantial construction" has occurred when the holder of a land use approval has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward the completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.

### **153.259.030 Modification of approval**

- A. An applicant may apply to modify an approval at any time after a period of six months has elapsed from the time a land use action approval has become final.
- B. Unless otherwise specified in a particular zoning ordinance provision, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.
- C. An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.
- D. An application for a modification shall be handled as a land use action.

### **153.259.040 Transfer of permit**

- A. A land use action permit shall be deemed to run with the land and be transferable to applicant's successors in interest.
- B. The Planning Department may require that an applicant record a notice of land use permit and conditions of approval agreement in the Crook County Records. Such an agreement shall set forth a description of the property, describe the permit that has been issued and set forth the conditions of approval.
- C. The terms of the approval agreement may be enforced against the applicant and any successor in interest.

### **153.259.050 Revocation of approvals**

- A. Approvals shall be subject to revocation according to standards set forth in the applicable zoning ordinances.
- B. Revocations shall be processed as a declaratory ruling under City of Prineville Land Development Ordinance. 153.259.010 notwithstanding, a public hearing shall be held in all revocation proceedings.

## **§153.260 DECLARATORY RULING**

**153.260.010 Availability of declaratory ruling**

**153.260.020 Persons who may apply**

**153.260.030 Procedures**

**153.260.040 Effect of declaratory ruling**

## **153.260.050 Interpretation**

### **153.260.010. Availability of declaratory ruling.**

A. Subject to the other provisions of this section, there shall be available for the City's comprehensive plans, zoning ordinances and City of Prineville Land Development Ordinance process for:

1. Interpreting a provision of a comprehensive plan or ordinance (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;
2. Interpreting a provision or limitation in a land use permit issued by the City or quasi-judicial plan amendment or zone change in which there is doubt or a dispute as to its meaning or application;
3. Determining whether an approval has been initiated or considering the revocation of a previously issued land use permit, quasi-judicial plan amendment or zone change;
4. Determining the validity and scope of a nonconforming use; and
5. Determination of other similar status situations under a comprehensive plan, zoning ordinance or land division ordinance that do not constitute the approval or denial of an application for a permit.

Such a determination or interpretation shall be known as a "declaratory ruling" and shall be processed in accordance with this section. In all cases, as part of making a determination or interpretation the Planning Director shall have the authority to declare the rights and obligations of persons affected by the ruling.

B. A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.

C. Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until six months after a decision in the land use action is final.

D. The Planning Director may refuse to accept an application for a declaratory ruling if:

1. The Planning Director determines that the question presented can be decided in conjunction with approving or denying a pending land use action



application or if in the Planning Director judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed; or

2. The Planning Director determines that there is an enforcement case pending in district or circuit court in which the same issue necessarily will be decided as to the applicant and the applicant failed to file the request for a declaratory ruling within two weeks after being cited or served with a complaint.

The Planning Director determination to not accept or deny an application under this section shall be the City's final decision.

**153.260.020. Persons who may apply.**

A. 153.251.010(B) notwithstanding, the following persons may initiate a declaratory ruling under 153.260:

1. The owner of a property requesting a declaratory ruling relating to the use of the owner's property;
2. In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or
3. In all cases arising under 153.260.010, the Planning Director.

No other person shall be entitled to initiate a declaratory ruling.

B. A request for a declaratory ruling shall be initiated by filing an application with the planning department and, except for applications initiated by the Planning Director, shall be accompanied by such fees as have been set by the Planning Department. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Department.

**153.260.030 Procedures**

Except as set forth in this section or in applicable provisions of a zoning ordinance, the procedures for making declaratory rulings shall be the same as set forth in 153.250 for land use actions. Where the Planning Department is the applicant, the Planning Department shall bear the same burden that applicants generally bear in pursuing a land use action.

**153.260.040. Effect of declaratory ruling.**

A. A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties thereto as to the determination made.

B. 153.256.040 notwithstanding, and except as specifically allowed therein, parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.

**153.260.050 Interpretation**

Interpretations made under 153.260 shall not have the effect of amending the interpreted language. Interpretation shall be made only of language that is ambiguous either on its face or in its application. Any interpretation of a provision of the comprehensive plan or other land use ordinance shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance as applied to the particular section in question.