

DOCUMENTS
LOCAL
DURHAM
(1979a)

Zoning
Subdivision } #91
#90

CITY OF DURHAM

COUNTY OF WASHINGTON, STATE OF OREGON

ORDINANCE NO. 80-79

AN ORDINANCE ADOPTING THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE OF THE CITY OF DURHAM, OREGON.

The City of Durham, Oregon, ordains as follows:

Section 1:

Whereas the City of Durham through Citizen's Advisory Committee and Planning Commission has conducted hearings on the question of the adoption of a new Comprehensive Plan for the City of Durham and a new Land Development Code for the City of Durham pursuant to the rules and regulations of the Land Conservation and Development Commission, and furthermore, the City Council having also conducted public hearings for the purpose of receiving testimony on the Comprehensive Plan and Land Development Code.

Section 2:

The City Council of the City of Durham finds said Comprehensive Plan and Land Development Code is in conformance with LCDC Guidelines and herewith adopts as the Comprehensive Plan of the City of Durham the attached Comprehensive Plan and Land Development Code.

Section 3:

The City Council does hereby repeal all previously adopted Comprehensive Plans and Zoning Codes.

PASSED this 25 day of JULY, 1979.

FIRST READING: Date: July 18, 1979
SECOND READING: Date: July 25, 1979

Roll Call Vote:

William Gilham absent
Paul Goldbeck absent
Lorraine Winthers aye
Mary Taylor aye
Robert Percy aye

x Robert L. Percy Date: 7/25/79
Mayor

Attested To: Jeanne L. Perry
City Recorder

①

ORDINANCE NO. 80-79

DURHAM ZONING MAP

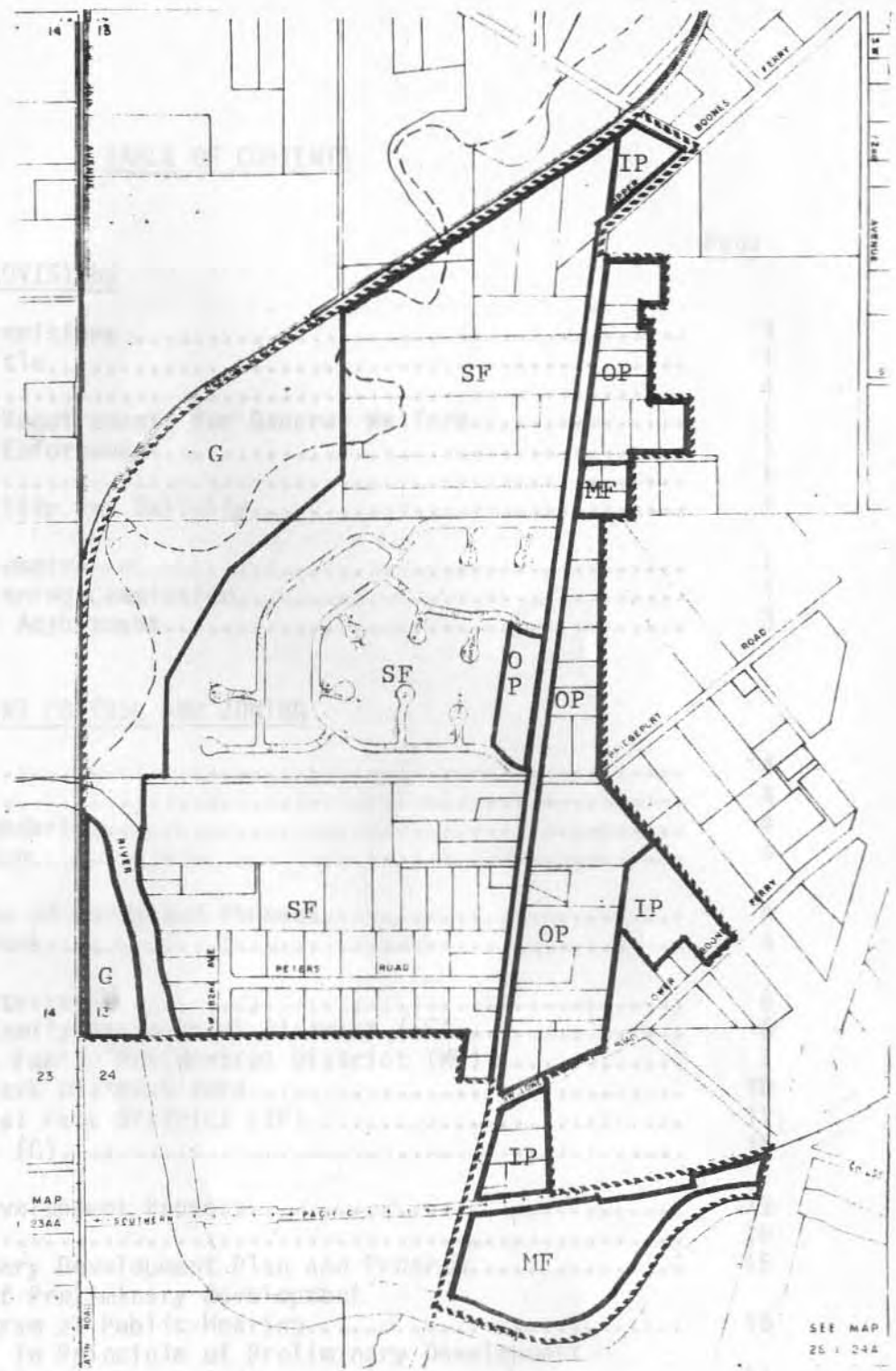
SF: Single Family Residential

MF: Multiple Family Residential

OP: Office Park

IP: Industrial Park

G : Greenway



SEE MAP 25 : 244

TABLE OF CONTENTS

	<u>Page</u>
<u>CHAPTER I - GENERAL PROVISIONS</u>	
Article 1 - General Provisions	1
Section 1 - Short Title.....	1
Section 2 - Scope.....	1
Section 3 - Minimum Requirements for General Welfare.....	1
Section 4 - Duty of Enforcement.....	1
Section 5 - Repeal.....	1
Section 6 - Severability and Validity.....	1
Article 2 - Planning Commission.....	1
Section 1 - City Planning Commission.....	1
Section 2 - Board of Adjustment.....	3
 <u>CHAPTER II - DEVELOPMENT CONTROL AND ZONING</u>	
Article 1 - Zoning.....	4
Section 1 - Zones.....	4
Section 2 - Zone Boundaries.....	4
Section 3 - Annexation.....	4
Article 2 - Definitions of Words and Phrases.....	4
Section 1 - Definitions.....	4
Article 3 - Zoning Districts.....	6
Section 1 - Single Family Residential District (SF).....	6
Section 2 - Multiple Family Residential District (MF).....	7
Section 3 - Office Park District (OP).....	10
Section 4 - Industrial Park District (IP).....	11
Section 5 - Greenway (G).....	15
Article 4 - Planned Development Process.....	15
Section 1 - Scope.....	15
Section 2 - Preliminary Development Plan and Program.....	15
Section 3 - Review of Preliminary Development and Program at Public Hearing.....	16
Section 4 - Approval in Principle of Preliminary Development Plan and Program, Conditions.....	16
Section 5 - Referral of Approved Preliminary Development Plan and Program to Design Review Board.....	17
Section 6 - Approval in Principle of Preliminary Development Plan and Program not to Mean Approval of Preliminary Subdivision Plat.....	17
Section 7 - Approval in Principle of Stages.....	17
Section 8 - Final Development Plan and Program.....	17
Section 9 - Review of Final Development Plan and Program at Public Hearing.....	19
Section 10- Approval of Final Development and Program, Conditions..	19

TABLE OF CONTENTS

	<u>Page</u>
Article 5 - Off-Street Parking and Loading.....	19
Section 1 - General Requirements for Parking Lots.....	19
Section 2 - Access and Egress.....	20
<u>CHAPTER III - LAND PARTITIONING AND SUBDIVISION CONTROL</u>	
Article 1 - Administrative Provisions, Generally.....	24
Section 1 - Purpose.....	24
Section 2 - Approval of Subdivisions and Land Partitionings.....	24
Section 3 - Definitions.....	24
Article 2 - Tentative Sketch.....	26
Section 1 - Submission of Tentative Sketch.....	26
Section 2 - Explanatory Information with Tentative Sketch.....	26
Section 3 - Scale.....	27
Section 4 - General Information.....	27
Section 5 - Existing Conditions.....	27
Section 6 - Proposed Plan of Land Partitioning.....	27
Section 7 - Partial Development.....	28
Section 8 - Preliminary Review of Proposal.....	28
Section 9 - Review of Tentative Sketch at Hearing on Preliminary Development Plan and Program.....	28
Section 10- Approval of Tentative Sketch and Review by Design Review Board.....	28
Article 3 - Preliminary Plat.....	29
Section 1 - Hearing on Preliminary Plat, Action by Planning Commission.....	29
Article 4 - Final Plat.....	29
Section 1 - Submission of Final Plat.....	29
Section 2 - Information on Final Plat.....	30
Section 3 - Supplemental Information with Final Plat.....	31
Section 4 - Approval of Final Plat.....	32
Section 5 - Approval of County Surveyor.....	32
Section 6 - Agreement for Improvements.....	32
Section 7 - Bond.....	33
Section 8 - Filing of Final Plat.....	33
Article 5 - Approval of Streets and Ways.....	33
Section 1 - Creation of Streets.....	33
Section 2 - Creation of Ways.....	34
Article 6 - Land Partitioning.....	34
Section 1 - Land Partitioning.....	34

TABLE OF CONTENTS

	<u>Page</u>
Article 7 - Design Standards.....	35
Section 1 - Principles of Acceptability.....	35
Section 2 - Streets.....	36
Section 3 - Blocks.....	38
Section 4 - Lots.....	38
Section 5 - Large Lot Subdision.....	39
Section 6 - Open Spaces.....	39
Article 8 - Improvement Requirements.....	39
Section 1 - Improvement Requirements.....	39
Article 9 - Improvement Administration.....	41
Section 1 - Fees.....	41
Section 2 - Improvement Procedures.....	41
Article 10 - Exceptions, Variances and Enforcement.....	42
Section 1 - Exception in Case of Large Scale Development.....	42
Section 2 - Variance Application.....	42
Section 3 - Variances.....	43
Section 4 - Penalties for Violation.....	43
Section 5 - Temporary Sales Office.....	43
 <u>CHAPTER IV - DESIGN REVIEW BOARD</u>	
Article 1 - Administrative Provisions, Generally.....	44
Section 1 - Composition of Board and Qualifications of Members.....	44
Section 2 - Appointment and Terms.....	44
Section 3 - Vacancies and Removal.....	44
Section 4 - Chairman and Secretary.....	44
Section 5 - Voting.....	44
Section 6 - Meetings and Records.....	44
Section 7 - Rules.....	44
Article 2 - Jurisdiction of Board.....	45
Section 1 - Scope.....	45
Article 3 - Proceedings and Actions of the Board.....	45
Section 1 - Procedure.....	45
Section 2 - N otice.....	45
Section 3 - Recommendation to Planning Commission.....	45
Section 4 - Implementation of Final Plan and Program.....	45
 <u>CHAPTER V - GREENWAYS</u>	
Article 1 - Administrative Provisions, Generally.....	46
Section 1 - Statement of Intent.....	46
Section 2 - Definitions.....	46

TABLE OF CONTENTS

	<u>Page</u>
Article 2 - Uses.....	47
Section 1 - Permitted Uses.....	47
Section 2 - Prohibited Uses and Activities.....	48
Section 3 - Non-Conforming Uses.....	48
Section 4 - Special Permits or Exceptions.....	48
Section 5 - Standards for Permitted Structures.....	49
Article 3 - Treatment of Created Hardships.....	50
Article 4 - Appeal to City Council.....	50
Article 5 - U. S. Army Corps of Engineers.....	50
 <u>CHAPTER VI - ADMINISTRATION PROVISIONS</u>	
Article 1 - Legislative Land Use Action.....	51
Section 1 - Definitions.....	51
Section 2 - Petition for Legislative Land Use Action.....	51
Section 3 - Annual Review.....	51
Section 4 - Filing of Petition, Fees, Preliminary Review as to Form.....	52
Section 5 - Notice of Public Hearing on Legislative Land Use Petition.....	52
Section 6 - Public Hearing and Procedures at Hearing.....	53
Section 7 - Continuation of Hearing, Deliberations.....	53
Section 8 - Findings Required for Legislative Action.....	53
Section 9 - Recommendation.....	53
Section 10- Final Order for Legislative Land Use Action.....	54
Section 11- Appeals.....	54
Article 2 - Quasi-Judicial Actions	
Section 1 - Quasi-Judicial Proceedings, Generally.....	54
Section 2 - Definitions of Actions Requiring Quasi-Judicial Proceedings.....	54
Section 3 - Application Process for Quasi-Judicial Proceeding.....	57
Section 4 - Initial Hearing on Quasi-Judicial Application.....	58
Section 5 - Pre-Hearing Contracts.....	59
Section 6 - Continuation of Public Hearing.....	59
Section 7 - Orders.....	59
Section 8 - Appeal.....	60
Article 3 - Enforcement, Exceptions, Miscellaneous Provisions, Fees..	62
Section 1 - Enforcement.....	62
Section 2 - Exceptions.....	62
Section 3 - Miscellaneous Provisions.....	63
Section 4 - Fees.....	63

CHAPTER I - GENERAL PROVISIONS

ARTICLE 1 - GENERAL PROVISIONS

SECTION 1 - Short Title - This Ordinance shall be known as the Land Development Code of the City of Durham, Oregon. It shall be known hereinafter as the "Code."

SECTION 2 - Scope - No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless in conformity with regulations herein specified or referred, except as otherwise provided herein. No permit for the construction or alteration of any building shall be issued unless the plans, specifications, and intended use of such building conforms in all respects with the provisions of this Code.

SECTION 3 - Minimum Requirements for General Welfare - The provisions of this Code shall be deemed the minimum requirements for the preservation of the public safety, health, and welfare of the people of the City of Durham, Oregon.

SECTION 4 - Duty of Enforcement - It shall be the duty of the City Recorder to see that this Code is enforced.

SECTION 5 - Repeal - Ordinance 26-72 and all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 6 - Severability and Validity - Should any Section, clause or provision of this Code be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Code as a whole or any part thereof, other than the part declared invalid.

ARTICLE 2 - PLANNING COMMISSION

SECTION 1 - City Planning Commission

- A. The Planning Commission is established and constituted as the planning agency of the City of Durham, Oregon.
- B. The Commission shall consist of nine (9) members appointed by the Council, each to serve for a term of four (4) years or until their respective successors are appointed and qualified.
- C. The members of the Commission shall serve without compensation other than reimbursements for duly authorized expenses.
- D. Membership on the Commission shall reflect the geographical areas of the City.
- E. Upon vacancies created by termination, resignation, or removal of Commission members, the Commission shall recommend to the Council one or more persons to serve as a member on the Planning Commission.

- F. At least seven (7) members of the Commission shall be residents of the City. No more than two (2) voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two (2) voting members shall be engaged in the same kind of business, trade, or profession.
- G. The Commission shall elect a chairman and vice-chairman, and may elect other officers, to serve one year terms.
- H. The Council may designate one or more officers of the City to be ex-officio non-voting members of the Commission.
- I. Five (5) members of the Commission shall constitute a quorum. An affirmative vote of five (5) shall be required to recommend approval of legislative amendments to the Comprehensive Development Plan and Code. An affirmative vote of a majority of members present shall be required to approve on quasi-judicial matters.
- J. The Board shall assign space to enable the Commission to transact business and keep its records.
- K. All meetings of the Commission shall be open to the public and be in conformance with administrative procedures herein described.
- L. A member of the Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or a substantial financial interest: The member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the previous two (2) years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential conflict of interest shall be disclosed at the meeting of the Commission where the action is being taken.
- M. Members of the Commission may be removed from the Commission under the following rules:
 - 1. Members may request that they be removed for personal or other reasons. Such requests shall be made to the Council.
 - 2. Unexcused absences from three (3) consecutive Planning Commission meetings, including regular, special, and work sessions, shall constitute nonperformance. An excused absence may be obtained by contacting the Chairman or Secretary of the Board, or City Recorder, at least 24 hours prior to any scheduled meeting.

3. The Commission may, after hearing, recommend the removal of any member for nonperformance of duties or misconduct. Such recommendations shall be made to the Council.

SECTION 2 - Board of Adjustment

- A. The Planning Commission may establish a Board of Adjustment.
- B. The Board of Adjustment shall consist of three (3) members of the Commission and shall be appointed by the Commission Chairman.
- C. The Board of Adjustment shall consider and decide applications for temporary permits, area variances and perform any other duties as directed by the Planning Commission.
- D. All matters brought before the Board of Adjustment shall be voted upon by the members. An affirmative vote of two (2) shall be required for all applications made to the Board of Adjustment.

CHAPTER II - DEVELOPMENT CONTROL AND ZONING

ARTICLE 1 - ZONING

SECTION 1 - Zones - For the purpose of this Code the territory of Durham, Oregon, is hereby divided into the following zones:

- A. Single Family Residential (SF)
- B. Multiple Family Residential (MF)
- C. Office Park (OP)
- D. Industrial Park (IP)
- E. Greenway (G)

SECTION 2 - Zone Boundaries - The zone boundaries of these zones established is shown on the official zoning map of the City of Durham, Oregon, which is hereby made a part of this Code. The zoning map shall be titled: Zoning Map, City of Durham, Oregon. Said official zoning map shall remain on file in the Office of the City Recorder, where copies shall be made available for review.

- A. Zone boundaries are intended to follow property lines, lot lines or center lines of streets and alleys, unless otherwise noted.
- B. Questions concerning the exact location of zone boundary lines shall be clarified by the Planning Commission.

SECTION 3 - Annexation - Areas annexed to the City shall be zoned by the City at the time of annexation and so noted on the official zoning map.

ARTICLE 2 - DEFINITIONS OF WORDS AND PHRASES

SECTION 1 - Definitions - The following words and phrases, when used in this Code, shall have meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "lot" includes the word "plot;" the word "building" includes the word "structure;" and the word "he" means the neutral.

- A. Accessory Structure or Use - A structure or use incidental and subordinate in the main use of the property and which is located on the same lot with the main use such as, but not limited to, garages, carports, tool sheds, private greenhouses, utility building, and home occupations.
- B. Building - A structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind.
- C. City - The City of Durham, Oregon.

- D. Commission - The Planning Commission of the City of Durham.
- E. City Recorder - The City Recorder of the City of Durham.
- F. Dwelling, Single Family Detached - A detached building containing one dwelling unit on one legal lot.
- G. Dwelling, Single Family Attached - A building containing one dwelling unit which is attached to another building, but where there exists one legal lot per dwelling unit.
- H. Dwelling, Multiple Family - Two or more dwelling units contained within one building located on one legal lot.
- I. Home Occupation - A commercial activity conducted within a dwelling unit, provided that:
1. No person other than members of the family residing on the premises shall be engaged in such occupation;
 2. The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not generally more than 1,000 square feet shall be used in the conduct of the home occupation;
 3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than signs allowed as prescribed in this Code;
 4. No home occupation shall be conducted in any accessory building;
 5. No traffic shall be generated by such home occupation in greater volume than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall meet off-street parking requirements as prescribed in this Code, providing that such parking shall not locate in the front yard; and
 6. No equipment or process shall be used in such home occupation which creates noise, vibrations, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family detached dwelling. In the case of electrical interference, no equipment or process shall be used which created visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- J. Lot - A parcel of tract of land which is occupied or may be occupied by a use approved in accordance with this Code.
- K. Lot Coverage - The area of the total area of the lot which may be covered by a main building.

- L. Lot, Corner - A lot abutting on two intersecting streets other than an alley.
- M. Parking Space - A rectangle not less than nineteen (19) feet long and nine (9) feet wide together with maneuvering and access space required for a standard American automobile to park.
- N. Construction Office - An enclosed structure used for a business office or storage of construction tools or supplies during the period of construction of residential, commercial, or industrial structures by the owner, subdivider, contractor, or their authorized agents and representatives.
- O. Sign - A presentation or representation, not in an enclosed building and other than a house number which, by words, letters, figures, designs, pictures, or colors is publicly displayed so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of advertising. This includes the board, metal, or surface upon which the sign is painted, included, or attached. Each display surface of a sign shall be considered a sign. Signs shall be subject to the Design Review process described herein.
- P. Use - The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
- Q. Yard - An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Code.
- R. Yard, Front - An open space between side lot lines and measured horizontally from the front lot line at right angles to the front lot line to the nearest point of the building.
- S. Yard, Rear - An open space extending between side lot lines and measured horizontally at right angles from the rear lot line of the nearest point of a main building.
- T. Yard, Side - A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the building.

ARTICLE 3 - ZONING DISTRICTS

SECTION 1 - Single Family Residential District (SF) - The purpose of the SF District is to provide a supply of land for single family residential occupation. The SF District is intended to be applied to those areas where large lot single family residential development has substantially committed the land for that use, and where surrounding land use activities are not expected to conflict with a low density residential environment. A substantial area of the Fanno Creek Greenway is included in the SF District. It is not intended that the Greenway be developed into residential struc-

tures, but it is intended that planned developments incorporating Greenway land would cluster development on buildable land outside of the Greenway area while ensuring the Greenway becomes part of the City's open space network. Table 1 shows those uses which are permitted outright and permitted by Conditional Use Permit in the SF District. Table 2 shows development standards for the SF District.

SECTION 2 - Multiple Family Residential District (MF) - The purpose of the District is to encourage flexibility in the development of land, encourage variety in the development pattern of the community, encourage developers to use creative approaches in land development, conserve natural land features, facilitate a desirable aesthetic and efficient use of open space, create public and private open spaces, and ensure that the goals and policies of the Comprehensive Development Plan are realized and followed. The MF District is intended to be applied either where such development has substantially occurred or where such development is desirable to occur owing to the availability of public services and separation from potentially conflicting land use activities. Table 1 shows those uses which are permitted outright, permitted by Conditional Use Permit, and permitted by Temporary Permit in the MF District. Table 2 shows development standards for the MF Districts.

TABLE 1

Uses Permitted Outright, By Conditional Use Permit, and by Temporary Permit in Residential Districts

Multiple Family

Single Family

Uses Permitted Outright

Single Family Detached Dwelling

Single Family Detached Dwelling

Home Occupation

Single Family Attached Dwelling

Multiple Family Units

Gardening

Uses Permitted by Conditional Use Permit

Children's Day Care Center as part of a dwelling

Children's Day Care Center

Community Utility Structure

Community Utility Structure

Greenhouses

Home Occupation

Greenhouses

Uses Permitted by Temporary Permit

Real Estate and Construction Offices in Conjunction with PD

Real Estate and Construction Offices in Conjunction with PD

Open Storage of:

a. More than two (2) licensed vehicles

b. Any motorized vehicle not in running condition.

c. Vehicles regulated by the Oregon Public Utilities Commissioner

TABLE 2

Development Standards for Residential Districts

<u>Standards</u>	<u>Single Family</u>	<u>Multiple Family</u>
Density		16 units per gross acre
Minimum Lot Size	10,000 square feet w/o PD approval	Variable
Minimum Yards: Front	30 feet	30 feet
Side	10 feet	10 feet
Rear	20 feet	15 feet
Corner	20 feet	20 feet
Building Height	35 feet	35 feet
Minimum Street Frontage of Building	40 feet	60 feet
Minimum Cul-de-sac Frontage of Building	20 feet	40 feet
Services Required: Sewer	Subdivision Only	Required
Public Water Supply	Required	Required
Storm Drainage Features	Subdivision Only	Required
Planned Development Process	Subdivision Only	Required

B. Supplemental Standards Applicable to All Residential Districts:

1. Projections into Yards:

- a. Cornices, eaves, belt courses, sills, canopies, or other similar features not including bay windows or verticle projections, may extend or project into a required side yard not more than two (2) inches for one (1) foot of width of such side yard and may extend or project into a required rear or front yard not more than thirty (30) inches. Fireplace chimneys may also extend into a required front, side, or rear yard not more than than twenty (20) inches provided the width of such yard is not reduced to less than three (3) feet.
- b. Open porches or balconies, not more than thirty (30) inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet and may extend into a required front yard not more than thirty (30) inches.
- c. A fence lattice work, screen, or wall, not more than six (6) feet in height or a hedge or thick growth of shrubs maintained so as not to exceed six (6) feet in height may be located in any required yard, unless the adjoining land use is not residential, in which case maximum height may be regulated by the Planning Commission under application for planned development or variance.

2. Corner Vision Applicable to All Residential Districts:

- a. Corner lots shall have no sight obstruction between three (3) feet and ten (10) feet in height measures from street grade located closer than twenty (20) feet from the street corner in any direction.

3. Accessory Height Applicable to All Residential Districts:

- a. Chimneys, radio and television aerials may extend about thirty-five (35) feet to a maximum height of fifty (50) feet.

SECTION 3 - Office Park District (OP)

- A. Purpose and Intent - The purpose of this district is to provide for professional offices in locations adjacent to or across the street from residential districts, commercial districts of adjoining cities, and/or industrial parks. Office uses are more appropriate in such areas than commercial and retail activities because office uses tend to be more compatible with residential activities. In addition to providing opportunities to broaden the local economic base, this district is intended to attract a specialized office market, as described in the Comprehensive Development Plan. Finally, this district is intended to

be selectively applied to those areas where residential uses are buffered from adjoining gravel pits and/or major arterials.

B. Permitted Uses - No building, structure, or land shall be used except for the following uses.

1. Offices, studios, or clinics of accountants, architects, artists, management consultants, and physicians or other practitioners of the healing arts.
2. Offices of administrative, editorial, educational, financial, government, insurance, real estate, religious, research, scientific or statistical organizations whose activities are such that few visitors, other than employees, have reason to come to the premises.
3. Other office uses found similar to the above by the Planning Commission.

C. Development Standards

1. Lot Size - The following requirements shall apply when partitioning or subdividing land:
 - a. The minimum lot size shall be 10,000 square feet.
 - b. The minimum average lot width shall be 80 feet.
 - c. The minimum width at the building line shall be 80 feet.
 - d. The minimum lot width at the street shall be 80 feet.
2. Yard Requirements - Yards shall be determined by the Design Review Board as part of the planned development process.
3. Structure Height - The maximum height of any structure shall be thirty-five (35) feet.
4. Floor Area Ratio - Maximum rentable floor space to ground area ratio shall be twenty-five (25) percent.
5. Employee Density - Not more than 40 employees per gross acre of land included in an approved office park planned development.
6. Traffic Generation Limit - Not more than 100 vehicle trips per day generated per gross acre of land included in an approved office park planned development.
7. Planned Development Process - Office parks shall be approved in accordance with the planned development process.

SECTION 4 - Industrial Park District

- A. Purpose and Intent - The purpose of these districts is to provide for clean, non-polluting industrial and commercial uses in pleasantly

landscaped park-like settings. Industrial parks designated are intended to conform with respective location criteria described in the Comprehensive Development Plan.

B. Permitted Uses - No building, structure or land shall be used in this district except for the following uses:

1. Offices for executive, administrative and professional uses related to the sale or service of industrial products.
2. Laboratories: Testing, medical, dental, photo or motion picture.
3. Processing, assembly, packaging, or other treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries.
4. Processing, assembly, packaging and other treatment of such products as small hand tools, optical goods, hearing aids, and scientific instruments or equipment.
5. Processing, assembly, packaging and other treatment of small products manufactured from the following previously prepared or semi-finished materials: bone, hair, fur, leather, feathers, textiles, plastics, glass, wood, paper, cork, sheet metal, wire, tobacco, rubber, precious or semi-precious stones and similar small products.
6. Assembly and packaging of small electrical appliances, such as radios, televisions, phonographs, offices machines and including the manufacture of small parts for such appliances.
7. Manufacture of pottery and ceramics, using only previously pulverized clay.
8. Manufacture of musical instruments, toys and novelties.
9. Molding of small products from metal or plastic.
10. Sales of industrial hand tools, industrial supplies such as safety equipment and welding equipment, which are products primarily sold wholesale to other industrial firms or workers.
11. Eating facilities as part of an approved industrial park planned development.
12. Warehousing related to the above uses, and warehousing for merchandise or goods normally sold or owned in the office park or residential districts, but excluding direct sales to consumers from such warehouses.
13. Trade or industrial schools.
14. Publishing, printing and bookbinding.

15. Permanent dwelling unit for watchman and family; not including mobile home.
16. Other uses approved by the Planning Commission.

C. Development Standards for Industrial Park Districts

1. Lot Size - The following requirements shall apply when partitioning or subdividing land:

- a. The minimum lot area shall be 35,000 square feet.
- b. The minimum lot width shall be 50 feet.
- c. The minimum average lot width at the building line shall be 120 feet.
- d. The minimum lot width at the street shall be 120 feet.

2. Yard Requirements

- a. Front Yard - Minimum setback shall be 30 feet. Where the front yard is across the street from a residential district, minimum setback shall be 50 feet.
- b. Side Yard - When the side yard is across the street from a residential district, the minimum side yard shall be 50 feet. Otherwise, side yard setback shall be determined by the Planning Commission as part of an industrial park planned development.
- c. Rear Yard - When the rear yard is across the street from a residential district, the minimum setback shall be 30 feet. When the rear yard is adjacent to a residential district the minimum rear yard shall be 50 feet. Otherwise, rear yard setback shall be determined by the Planning Commission as part of an industrial park planned development.
- d. Corner Lot Yards - Setback shall be determined by the Planning Commission as part of an industrial park planned development.
- e. Off-street parking may be allowed within any required yard, provided that where the yard is across the street from or adjacent to a residential district, parking shall be screened by landscaping and/or fencing as required as part of an approved industrial park planned development.
- f. No spur rail trackage shall be permitted within 200 feet of an adjacent residential district.
- g. No yards are required where side or rear property lines abut a railroad right-of-way or spur track.

3. Landscaping, Enclosure, and Screening

- a. Properties of these districts abutting or across the street from a residential district shall provide and perpetually maintain a dense evergreen landscape buffer between the districts, as approved as part of an industrial park planned development.
- b. All yards shall provide lawn and/or live groundcover and/or shrubs and shall be perpetually maintained in a manner providing a park-like character to the property.

- c. Fencing shall be provided in accordance with requirements of an approved industrial park planned development.
4. Structure Height - No structure within these districts shall exceed a height of 40 feet.
5. Floor Area Ratio - The maximum rentable floor space to ground area ratio shall be twenty-five (25) percent.
6. Employee Density - Not more than 40 employees per gross acres of land included in an approved industrial park planned development.
7. Traffic Generation Limit - Not more than 100 vehicle trips per day generated per gross acre of land included in an approved industrial park planned development
8. Environmental Standards

a. Noise

(1) All noise shall be muffled so as not to be objectionable due to intensity, heat, frequency or duration as measured at any point of the property line, and shall not exceed the following intensity related to sound frequency:

<u>Octave Band</u>	<u>Maximum Permitted Sound Level Decibals</u>	
	<u>Hours</u>	
	<u>10 p.m. - 7 a.m.</u>	<u>7 a.m. - 10 p.m.</u>
0 to 74	69	74
75 to 149	54	59
150 to 299	47	52
300 to 599	41	46
600 to 1199	37	42
1200 to 2399	34	39
2400 to 4799	31	36
4800 and above	28	33

- (2) Sound levels shall be measured with a sound level meter and an octave band analyzer approved and calibrated by the Oregon Department of Environmental Quality.
- (3) Devices which are maintained and utilized solely to warning are excluded from these regulations.
- (4) Noise created by highway vehicles, trains and aircraft is excluded from these regulations.

- b. Vibration - No vibration, other than that caused by highway vehicles, trains, and aircraft shall be permitted which is discernable without instruments at any point on the property line.
 - c. Smoke and Particulate Matter - Smoke and particulate matter shall not be discharged into the air.
 - d. Odors - The emission of objectionable odors detectable at any point along the property line shall be prohibited.
 - e. Heat and Glare
 - (1) Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.
 - (2) Exterior lighting shall be directed away from adjacent non-industrial park properties.
 - f. Stored Materials - All materials, including wastes, shall be stored in a manner which will not attract or aid the propagation of vectors.
 - g. Liquid Waste Materials - No liquid waste materials shall be disposed onto the site or into adjacent drainage ditches, creeks or other natural waterways in a manner to cause harm to flora or fauna.
9. Planned Development Process - All industrial park developments shall be approved in accordance with the planned development process.

SECTION 5 - Greenway District (G)

- A. Purpose and Intent - The purpose of this District is to protect and preserve natural water storage areas, floodplains and drainage way areas and other Greenway areas by discouraging or prohibiting incompatible uses except in those instances where findings may properly be made by the Planning Commission or City Council allowing limited use of such area.
- B. Uses - Permitted uses, prohibited uses and activities, non-conforming uses, special permits or exceptions, and standards for permitted structures within this District shall be regulated through the procedures described in Chapter V - Greenways.

ARTICLE 4 - PLANNED DEVELOPMENT PROCESS

SECTION 1 - Scope - The planned development process shall be applied to all applications for development resulting in the creation of a subdivision, office park, industrial park, or multiple family residential development.

SECTION 2 - Preliminary Development Plan and Program - The applicant shall submit a preliminary development plan and program to the Planning Commission for an approval in principle. Elements of the development plan and program shall include the following:

A. Plan Elements

1. Proposed land uses and densities of population or employees.
2. Building types and intensities.
3. Circulation pattern.
4. Traffic generation.
5. Parks, playgrounds, open spaces.
6. Existing natural features, including drainageways, trees over five (5) inches in diameter, steep slopes of more than twelve (12) percent, and floodplain land.

B. Program Elements

1. Applicant's market analysis of proposed use.
2. Proposed ownership pattern.
3. Operation and maintenance proposal; for example, home owner association, condominium, cooperative, or other.
4. Impact on public facilities and services, including but not limited to schools, water supply, sanitary sewers, fire protection, crime prevention.
5. Contribution to the local economic base.
6. General timetable of development.
7. Proposed design team of the applicant. The design team shall be proposed on the basis of the extent and complexity of the planned development and shall consist of one or more persons with qualifications in planning, architecture, engineering, landscape architecture, building design, law, or other such similar professions.

SECTION 3 - Review of Preliminary Development Plan and Program at Public Hearing - The application for a planned development shall be reviewed by the Planning Commission in accordance with provisions for quasi-judicial public hearing.

SECTION 4 - Approval in Principle of Preliminary Development Plan and Program, Conditions

- A. The Planning Commission shall approve the preliminary development plan and program in principle, deny the application or approve of the application with conditions.

- B. In making its decision, the Planning Commission shall include findings supporting its action. These findings shall be based solely on the relationship of the application to the Comprehensive Development Plan.
- C. Conditions attached to approval of a preliminary development plan and program shall be limited to those which implement specific policies of the Comprehensive Development Plan.

SECTION 5 - Referral of Approved Preliminary Development Plan and Program to Design Review Board - After the preliminary development plan and program has been approved in principle or approved with conditions, the application shall be referred to the Design Review Board.

SECTION 6 - Approval in Principle of Preliminary Development Plan and Program Not to Mean Approval of Preliminary Subdivision Plat - In accordance with the subdivision provisions of this Code, only the tentative sketch of a subdivision proposal may be approved of in principle as the preliminary development plan and program. Approval of the tentative sketch does not result in the approval of the preliminary subdivision plat.

SECTION 7 - Approval in Principle of Stages - In the event the applicant requests that the planned development be divided into two or more stages, the Planning Commission may, if it approves of the preliminary development plan and program, designate that future stages will be reviewed at some later date. Future stages of the overall development shall be subject to the provisions of the planned development process. Approval of one stage of an overall development plan and program does not necessarily mean approval of subsequent stages.

SECTION 8 - Final Development Plan and Program - After the Design Review Board approves of a development plan and program, the applicant shall submit the application to the Planning Commission in the form of a final development plan and program. Elements of the final development plan and program shall include, but not be limited to, the following:

- A. A preliminary plat prepared in accordance with the subdivision provisions of this Code or, if the application is for an office park or industrial park development, a site plan and supporting information incorporating the following:
 - 1. A vicinity map showing all land uses, land partitionings, improved and unimproved streets, Comprehensive Development Plan designations, and zoning districts within 1,000 feet of any point along the property line of the proposed development.
 - 2. Approximate center line profiles of any new street or access way proposed, showing the finished grade of all streets as approved by the City Engineer.
 - 3. Approximate plan and profiles of proposed sanitary and storm sewers with grades, pipe sizes, and plan of proposed water distribution systems showing pipe sizes and location of valves and fire hydrants.

Also, the location in adjacent streets and properties of existing sewers, water drains, culverts, and drain pipes, electric conduits or lines proposed to be used on the property, and invert elevations of sewers at point of proposed connection.

4. Date, north point, and scale of site plan.
5. Location of the proposed development by Section, township and Range and a legal description sufficient to define the location and boundaries of the proposed development.
6. The site plan shall show the location, widths and names of all existing or platted streets or other public ways within or adjacent to the development, easements, railroad rights-of-way and other important features such as section lines and corners, City boundary lines and monuments.
7. Contour lines related to some established bench mark or other datum as approved by the City Engineer with intervals at a minimum of two (2) feet for slopes up to five (5) percent and five (5) feet for slopes over five (5) percent.
8. The location of at least one temporary bench mark within the development.
9. Location and direction of all water courses.
10. Natural features such as rock outcroppings marshes, all trees over five (5) inches in diameter, floodplains, steep slopes of over twelve (12) percent.
11. Existing uses of the property, including location of all existing structures to remain on the property after development completion.
12. Proposed streets or other ways showing location, widths, names, approximate grades, and approximately radii of curves. The relationship of proposed streets to any project streets as shown on the Comprehensive Development Plan.
13. Easements, showing location, width, and purpose.
14. Property dimensions.
15. Location and dimensions of proposed structures, including elevations.
16. Exterior representation of structure showing color schemes and materials to be used.
17. Landscaping plan and program.
18. Off-street parking and loading provisions.

19. Location and dimensions of land to be dedicated to the City as part of the City's Greenway and recreation policies of the Comprehensive Development Plan, including any improvements proposed.

20. Other information included in the Design Review Board proposal.

SECTION 9 - Review of Final Development Plan and Program at Public Hearing

A. Final development plan and program shall be reviewed by the Planning Commission in accordance with provisions for quasi-judicial public hearing.

B. Any disputes between the Design Review Board and the applicant's design team shall be presented prior to the public hearing on the application for final development plan and program. Resolution of disputes will occur when the Planning Commission acts on the application after public hearing.

SECTION 10 - Approval of Final Development Plan and Program, Conditions

A. The Planning Commission shall approve, deny, or approve the final development plan and program with conditions.

B. The Planning Commission shall include findings supporting its decision. Findings will relate the application to the Comprehensive Development Plan and the specific provisions of this Code.

C. A decision to approve the planned development shall be based on certain conclusionary findings. Additionally, any conditions attached to an approved planned development shall be intended to ensure that, with the conditions, the conclusionary findings can be made. These conclusionary findings include:

1. The proposed development is in conformance with the Comprehensive Development Plan.

2. Any exceptions from the standards of this Code are warranted by the design and amenities incorporated in the development plan and program.

3. The proposal is in harmony with the surrounding area or its potential future use.

4. The system of ownership and the means of developing, preserving and maintaining open spaces is suitable.

ARTICLE 5 - OFF-STREET PARKING AND LOADING

SECTION 1 - General Requirements for Parking Lots - A parking lot, whether an accessory or principle use, intended for the parking of four or more motorized vehicles, shall comply with the following:

- A. Areas used for standing or maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid the flow of water onto pedways and bikeways, or onto neighboring property.
- B. Except for parking to serve residential uses, parking areas adjacent to or within residential districts or uses shall be designed to minimize disturbance of residents.
- C. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential district or an any adjacent dwelling, or any public right-of-way in such manner as to impair the use of such way.
- D. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.
- E. Groups of more than four parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- F. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and the maximum safety of pedestrians and vehicular traffic on the site.
- G. Parking bumpers shall be so provided as to prevent cars from encroaching on the public right-of-way or obstructing its use.

SECTION 2 - Access and Egress

A. Provision and Maintenance

1. The provision and maintenance of access and egress shall be required of all developments and shall be approved by the Planning Commission prior to the issuance of any building permit. Should a use change requiring increased access and egress requirements, such change in use shall not be allowed until the Planning Commission approves a plan for providing adequate provision and maintenance of access and egress.
2. Unless the required access and egress is dedicated to public use by permanent easement or deed, the building official shall not issue a building permit until the City Attorney has been presented with satisfactory legal evidence in the form of deeds, easements, leases, or contracts to establish access and egress for the duration of the occupancy or use for which access and egress are required. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.
3. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined

access and egress of both uses, structures, or parcels of land satisfies the Planning Commission of adequate provision and maintenance of access and egress, and provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.

4. All access and egress shall connect directly with public streets.
5. Vehicular access for residential use shall be brought to within fifty (50) feet of the ground floor entrances or the ground floor landing of a stairway, ramp or elevator leading to dwelling units.
6. Required sidewalks shall extend from the ground floor entrances or the ground floor landing or stairs, ramps or elevators to the sidewalk or curb of the public street or streets which provide the required access and egress.
7. To afford safe pedestrian access and egress for commercial and industrial developments within the City, six-foot (6) wide sidewalks shall be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for commercial or industrial development. When the sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grades and alignment established by the City Engineer.
8. The standards set forth in this Article are minimum standards for access and egress, and may be increased by the Planning Commission in any particular instance where the standards provided herein are deemed insufficient.

B. Minimum Access Requirements for Residential Use

1. Access and egress for single family residential uses shall be paved to a minimum width of ten (10) feet. Maximum driveway widths shall not exceed eighteen (18) feet or thirty-five (35) percent of the lot frontage, whichever is greater, but in no case more than thirty (30) feet. For the purposes of this section, driveway widths shall be measured at the property line.
2. Access and egress for multiple family residential uses shall not be less than the following:

Dwelling Units	Minimum Number Required	Minimum Width	Additional Standards
2	1	20'	Hard surface pavement over 80% of required access width. No sidewalks or curbs required.
3-19	1 or 2 (one-way)	30' 20'	Hard surface pavement over 80% of required access width. Five foot sidewalks, one side only. No curbs required.
20-49	1 or 2 (one-way)	30' 20'	Hard surface pavement over 80% of required access width. Five foot sidewalks, one side only. No curbs required.
over 50	1 or 2 (one-way)	40' 30'	Hard surface pavement 32' wide. Five foot sidewalks, one side only. No curbs required.

C. Minimum Access Requirements for Office and Industrial Parks - Access and egress for office and industrial parks shall not be less than the following:

Parking Spaces Required	Minimum Number Required	Minimum Width	Additional Standards
1-99	1	30'	Hard surface pavement over 80% of required access width. Five foot sidewalks, one side only. No curbs required.
over 100	2	30'	As required by Planning Commission.

- D. One-Way Access and Egress - When approved by the Design Review Board, one-way access and egress may be used to satisfy requirements of office and industrial parks. Hard surface pavement of one-way drives shall not be less than sixteen (16) feet.
- E. Driveway Standards
1. Unless otherwise provided herein, maximum driveway width shall not exceed forty (40) feet.
 2. No driveways shall be constructed within five (5) feet of an adjacent property line except when adjacent owners elect to provide joint access to their properties.
 3. No driveways shall be allowed within thirty (30) feet of an intersecting street rights-of-way.
- F. Conformance with Comprehensive Development Plan - No building permit shall be issued for any proposed development unless the Planning Commission determines that such proposal provides access and egress in conformance with the Comprehensive Development Plan.

CHAPTER III - LAND PARTITIONING AND SUBDIVISION CONTROL

ARTICLE I - ADMINISTRATIVE PROVISIONS, GENERALLY

SECTION 1 - Purpose - The purpose of this Chapter is to provide rules, regulations and standards to govern the approval of plats of subdivisions and also of partitioning of land by creation of a street or way to carry out the development pattern and plan of the City of Durham.

SECTION 2 - Approval of Subdivisions and Land Partitionings

- A. The City shall have all the power and duties with respect to preliminary and final plans and maps of subdivisions and land partitionings and the procedure related thereto, which are specified and authorized by law and by this Code.
- B. Approval by the City of subdivisions and land partitionings inside the boundaries of the City of Durham is necessary before a plat for any such division of land may be filed or recorded in the office of the City Recorder.

SECTION 3 - Definitions - As used in these regulations the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- A. Building Line - A line on a plat indicating the limit beyond which buildings or structures may not be erected.
- B. Development Plan - Any plan adopted by the City Council for the guidance of growth and improvement of the City, including adjustments made from time to time to meet changing conditions or unanticipated problems and conditions affecting the public or land owners.
- C. Easement - A grant of the right to use a strip of land for specific purposes.
- D. Lot - A parcel of land intended as a unit for transfer of ownership or for development.
 - 1. Corner lot - A lot abutting upon two or more streets at their intersections.
 - 2. Reversed Corner Lot - A corner lot, the side street of which is substantially a continuation of the front lot line of the first lot to its rear.
 - 3. Through Lot - A lot having frontage on two parallel or approximately parallel streets other than alleys.
- E. Pedestrian Way - A right-of-way for pedestrian traffic.

- F. Planned Residential Development - A conditional use under single family residential zones which goes beyond general subdivision practices in combining various types of dwellings and other structures and used along with open areas to provide a more desirable overall living environment without greatly varying density.
- G. Planning Control Area - An area in a state of incomplete development within which special control is to be exercised over land partitioning.
- H. Plat - Includes a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision by which the subdivider's plan of subdivision is presented, and which he submits for approval and intends in final form to record.
- I. Right-of-Way - The area between boundary lines of a street or other easement.
- J. Roadway - The portion or portions of street right-of-way developed for vehicular traffic.
- K. Sidewalk - A pedestrian walkway with permanent surfacing.
- L. Street - The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms, "road," "highway," "lane," "place," "avenue," "alley," or similar designations.
 - 1. Alley - A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
 - 2. Arterial - A street which is used primarily for through traffic or which, by its location, will likely be needed for such use in the normal growth of the City.
 - 3. Collector - A street supplementary to the arterial street system used to some extent for through traffic and to some extent for access to abutting properties.
 - 4. Cul-de-sac (dead-end street) - A short street having one end open to traffic and being terminated by a turnaround.
 - 5. Half Street - A portion of the width of a street usually along the edge of a subdivision where the remaining portion of the street has been or could later be provided in another subdivision.
 - 6. Marginal Access Street (frontage road) - A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

- M. Street Plug - A narrow strip of land located between a subdivision and other property, not dedicated to public use, but conveyed to the City for the purpose of giving the City control over development of the adjacent property.
- N. Subdivide Land - Means to partition a parcel of land into three or more parcels for the purpose of transfer of ownership of building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for at least one full year preceeding the partitioning.
- O. Subdivision - Either an act of subdividing land or a tract of land subdivided as defined in this section.

ARTICLE 2 - TENTATIVE SKETCH

SECTION 1 - Submission of Tentative Sketch - In accordance with provisions for review and approval of planned developments in residential districts, the subdivider shall prepare a tentative sketch together with improvement plans and other supplemental material as may be required to indicate the general program and objectives of the projects, and shall submit fifteen (15) copies of such to the City Recorder not less than sixty (60) days prior to the next regularly scheduled Planning Commission meeting.

SECTION 2 - Explanatory Information with Tentative Sketch - Any of the following information may be required by the City and if it cannot be shown practicably on the tentative sketch, it shall be submitted on separate sheets accompanying the tentative sketch:

- A. A vicinity map showing all existing subdivision, streets and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets may be extended to existing streets. The vicinity map shall be at a scale of one inch equals four hundred feet (1" = 400') and shall show all lands within a radius of one-half (1/2) mile from the proposed streets within the proposed subdivision and their connection with adjacent streets plus zoning on and adjacent to the tract.
- B. Approximate centerline profiles showing the finished grade of all streets as approved by the City Engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
- C. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plan of the proposed water distribution systems, showing pipe sizes and the location of valves and fire hydrants. Also, the location in the adjacent streets and properties of existing sewers, water drains, culverts, and drain pipes, electric conduits or lines proposed to be used on the property to be subdivided and invert elevations of sewers at point of proposed connection.

SECTION 3 - Scale - The tentative sketch shall be drawn on a sheet 18 x 24 inches in size or a multiple thereof at a scale of one inch equals one hundred feet (1" = 100').

SECTION 4 - General Information - The following information shall be shown on the tentative sketch:

- A. Appropriate identification clearly stating the map is a tentative sketch.
- B. Proposed name of the subdivision. This name must not duplicate or resemble the name of any other subdivision in Washington County and must be approved by the City.
- C. Date, north point, and scale of drawing.
- D. Location of the subdivision by Section, Township and Range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.
- E. Names and addresses of the owner or owners, subdivider, and engineer or surveyor.

SECTION 5 - Existing Conditions - The following existing conditions shall be shown on the tentative sketch:

- A. The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract, easements, railroad rights-of-way and other important features such as section lines and corners, City boundary lines and monuments.
- B. Contour lines related to some established bench mark or other datum as approved by the City Engineer with intervals at a minimum of two (2) feet for slopes up to five (5) percent, and five (5) feet for slopes over five (5) percent.
- C. The location of at least one temporary bench mark within the plat boundaries.
- D. Location and direction of all water courses.
- E. Natural features, such as rock outcroppings, marshes, wooded areas and isolated preservable trees.
- F. Existing uses of the property, including location of all existing structures to remain on the property after platting.

SECTION 6 - Proposed Plan of Land Partitioning - The following information shall be included on the tentative sketch:

- A. Streets, showing location widths, names, approximate grades, and approximate radii of curves. The relationship of all streets to any projected streets as shown on any development plan adopted by the City.
- B. Easements, showing the width and purpose.
- C. Lots, showing approximate dimensions, minimum lot size, proposed lot and block numbers.
- D. Sites, if any, allocated for multiple family dwellings, shopping centers, churches, industry, parks, schools, playgrounds, public or semi-public buildings or other special use.

SECTION 7 - Partial Development - Where the plat to be subdivided contains only part of the tract owned or controlled by the subdivider, the City shall require a plan of tentative layout for streets in the unsubdivided portion.

SECTION 8 - Preliminary Review of Proposal - Within two (2) days after being submitted by the subdivider, the City Recorder shall furnish one (1) copy of the tentative sketch and supplemental material to the County Surveyor, one copy to the County Planning Office, and one copy to the State Highway Division. These agencies shall be given at least until the hearing on the preliminary plan and program, described below.

SECTION 9 - Review of Tentative Sketch at Hearing on Preliminary Development Plan and Program

- A. Upon receipt of the tentative sketch and supplemental material, the City Recorder shall arrange for a public hearing to be held by the Planning Commission in accordance with provisions for quasi-judicial proceedings, described in this Code.
- B. The City Recorder shall circulate the tentative sketch with the City Engineer, County Surveyor, and other professional advisors to the City for the purpose of reviewing the material for its compliance with provisions for a tentative sketch as provided in this Article. Within fifteen (15) days after receipt of the tentative sketch and other material by the subdivider, the City Recorder shall notify the subdivider of any additional information required in order for the tentative sketch to comply with this Article.
- C. Review of the tentative sketch for subdivision shall be in accordance with provisions for review of preliminary development plan and program as described in this Code.

SECTION 10 - Approval of Tentative Sketch and Review by Design Review Board
Upon approval of the tentative subdivision sketch by the Planning Commission, the tentative sketch shall be referred to the Design Review Board where the specific decisions relating to the preliminary plat shall be reviewed and approved by the Board.

ARTICLE 3 - PRELIMINARY PLAT

SECTION 1 - Hearing on Preliminary Plat, Action by Planning Commission

- A. Within 90 days of referral to the Design Review Board, the subdivider shall submit a preliminary plat to the Planning Commission. The form and content of the preliminary plat shall include the following:
 1. The preliminary plat shall consist of elements approved by the Design Review Board. Where the preliminary plat is at variance with the recommendations of the Design Review Board, notation of differences shall be made known and written explanation of the differences as they effect the subdivider shall be provided.
 2. All information required by the tentative sketch.
- B. Upon submission of the preliminary plat to the City Recorder, public hearing procedures for notification shall be followed.
- C. The public hearing on the proposed preliminary plat shall be conducted in such a manner as provided in the rules of the Planning Commission.
- D. The Planning Commission may approve the preliminary plat, require amendments or modifications thereto or reject the proposed preliminary plat. The action of the Planning Commission shall be noted on two (2) copies of the preliminary plat, which notation shall identify any documents describing conditions of approval or modifications. One (1) copy of the plat shall be returned to the applicant, and the other copy shall be retained in the office of the City Recorder with a memorandum setting forth the action of the Planning Commission.

ARTICLE 4 - FINAL PLAT

SECTION 1 - Submission of Final Plat - Within twelve (12) months after approval of the preliminary plat, the applicant shall cause the subdivision or any part thereof to be surveyed and a final plat prepared in conformance with the preliminary plat as approved. The applicant shall submit the original drawing, the cloth and five (5) prints of the final plat and all supplementary information required pursuant to the provisions of this Code to the City Recorder at least ten (10) days prior to the City Council meeting at which consideration of the plat is desired. If the applicant wishes to proceed with the subdivision after the expiration of the twelve (12) month period beginning from the date of Planning Commission approval of the preliminary plat, he must resubmit the preliminary plat to the Planning Commission and make any revisions considered necessary by the Commission to meet changed conditions. New fees shall be assessed as necessary.

SECTION 2 - Information on Final Plat - In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point (generally pointing up), legend, and controlling topography such as creeks, highways, and railroads.
- B. Legal description of the tract boundaries.
- C. Reference points of existing surveys identified, related to the plat by distances and bearings, and references to recorded surveys as follows:
 - 1. The location and description of all stakes, monuments, other evidence found on the ground and used to determine the boundaries of the subdivision.
 - 2. Adjoining corners of all contiguous subdivisions.
 - 3. Section, Township, Range, donation land claim lines and boundaries of any lots within previously recorded subdivision plats within or adjacent to the plat.
 - 4. Whenever the City, County or State has established the center lines of a street adjacent to or within the proposed subdivision, the location of this line shall be shown and monuments found or reset.
 - 5. Location and description of all monuments found or established in making the survey of the subdivision or required to be installed by the provisions of these regulations.
- D. Lines with dimensions, bearings, radii, arcs, delta angles, points of curvature and tangent bearings for tract, lot and block boundaries and street right-of-way and center lines. Error of closure shall be within the limit of one foot in 4,000 feet. No ditto marks shall be used. Lots containing one acre or more shall show total acreage to nearest hundredth.
- E. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the widths on each side of the center line. For streets on curvature, curve data shall be based on the street corner line and, in addition to center line dimensions, shall indicate thereon the radius and center angle. This data may be shown in a table.
- F. Easements within or adjacent to the plat denoted by fine dotted lines, clearly indicated and, if already of record, its recorded reference. If any easement is not definitely located of record, a statement of the bearings of the lines thereof, and sufficient ties thereto, to definitely locate the easement as being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.
- G. Lot numbers beginning with the number "1" in each block.

- H. Block numbers, if used, should begin with the number "1" and continue consecutively without omission or duplication throughout the subdivision. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the plat last filed.
- I. Land parcels to be dedicated for any purpose are to be distinguished from lots intended for sale.
- J. The following certificates, which may be combined where appropriate:
 - 1. A certificate signed and acknowledged by all parties having any interest in record title in the land subdivided, consenting to the preparation and recording of said map and dedicating all parcels of land shown on the final map and intended for any public use.
 - 2. An affidavit signed by the engineer or the surveyor responsible for the survey and final map, the signature of such engineer or surveyor to be accompanied by his seal.
 - 3. Provisions for all certifications now or hereinafter required by law.

SECTION 3 - Supplemental Information with Final Plat - The subdivider will provide the following additional information:

- A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties having any record title interest in the premises and what interests they have.
- B. Sheets and drawings showing the following:
 - 1. Traverse data, including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - 2. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and State highway stationing.
- C. A copy of deed restrictions, including building setback lines, if any, are applicable to the subdivision, and a copy of any dedication which requires separate documents.
- D. Written proof that all taxes and assessments on the tract are paid for the current year.
- E. A certificate by the City Engineer stating that the subdivider has complied with one of the following alternatives:
 - 1. All improvements have been installed in accordance with the requirements of these regulations and with the action of the City Council giving tentative approval of the preliminary plat.

2. An agreement has been executed as provided herein.

SECTION 4 - Approval of Final Plat - Upon receipt by the City Recorder, the final map and other data shall be reviewed. If the City Engineer and City Recorder determine that the final plat is in full conformance with the approved preliminary plat and other regulations, they shall so advise the Mayor. The Mayor may then sign the plat without further action by the City Council. If the final plat is not in full conformance, it shall be submitted to the City Council. When submitted to the City Council, approval of the final plat shall be by a resolution of the Council. In the absence of the Mayor, his duties and powers with respect to action on final plats shall be vested in the President of the Council.

SECTION 5 - Approval of County Surveyor - After approval by the City Council, the City Recorder shall transmit the final map, tracing and other data to the County Surveyor who shall examine them to determine that there has been compliance with all provisions of the State law and this Code. The County Surveyor may make such checks in the field as he may desire to verify that the map is sufficiently correct on the ground and he may enter the property for this purpose. When the County Surveyor finds the documents in full conformance and has been paid the statutory fee for such service, he shall sign his approval in the space provided.

SECTION 6 - Agreement for Improvements - Before the City Council approval is certified on the final plat, the subdivider shall complete all required subdivision improvements and have the same accepted by resolution of the City Council, or in the alternative, the subdivider shall execute and file with the City Council an agreement between the subdivider and the City specifying the period within which all required subdivision improvements and repairs shall be completed, providing that if such work is not completed within the period specified, the City may complete the same and recover the full cost and expense thereof from the subdivider. Such agreement may also provide for the construction of the improvements in phases. The agreement shall provide that the subdivider will guarantee the required subdivision improvements against any and all defects in workmanship and materials for a period of two (2) years from and after the date of completion of said improvements. In the event the subdivider completes the construction of required subdivision improvements prior to approval and certification of final plat, the subdivider shall execute and file with the City Council a maintenance bond and guarantee issued by a surety authorized to do business in the State of Oregon, which maintenance bond and guarantee shall provide that any and all defects in workmanship and materials for a period of two (2) years from and after the date of acceptance and approval of said subdivision improvements shall be corrected, repaired and made to conform to the applicable City standards for such improvements. The City Council may approve, upon request, a deposit of cash with the City, or cash in escrow with an escrowee approved by the City and subdivider. The deposit of cash or cash in escrow shall be in lieu of the corporate surety bond if approved by the City Council. Such assurance of maintenance and guarantee

shall be for a sum approved by the City Recorder provided, however, that such sum in lieu of a maintenance bond shall not be less than fifteen percent (15%) of the actual cost of construction of said improvements.

SECTION 7 - Bond - The subdivider shall file with the agreement required above a corporate surety bond issued by a surety company authorized to transact business in the State of Oregon, which bond shall assure the subdivider's full and faithful performance of the provisions of said agreement. The City Recorder may approve, upon request, a deposit of cash with the

City, or cash in escrow with a bonded escrow agent licensed in the State of Oregon. The deposit of cash or cash in escrow shall be in lieu of the corporate surety bond if approved by the City Recorder. Such assurance of full and faithful performance of said agreement shall be for a sum approved by the City Recorder as sufficient to cover the cost of the required subdivision improvements, including related engineering and incidental expenses. In the event the subdivider fails to perform all provisions of the subdivision agreement and the City has unreimbursed costs or expenses resulting from such failure to perform, the City shall be authorized to use the cash deposit for reimbursements or bring an action or claim on the surety or on the surety bond. If the amount of the bond or cash deposit exceeds cost and expense incurred by the City to perform the provisions of the agreement upon the subdivider's failure to do so, the City shall release the remainder, and if the amount of the bond or cash deposit is less than the cost and expense so incurred by the City, the subdivider shall be liable to the City for the difference.

SECTION 8 - Filing of Final Plat - The City Recorder shall, without delay, submit the final plat to the County Assessor and the County governing body for 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 60 days after the date the last required approving signature has been obtained.

ARTICLE 5 - APPROVAL OF STREETS AND WAYS

SECTION 1 - Creation of Streets

- A. The final plat shall provide for the dedication of all streets approved and accepted for public use. Acceptance of the final plat shall constitute acceptance of the street dedication shown thereon.
- B. The creation of all streets shall be in conformance with requirements for subdivision, except, however, the Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions, provided any of the following conditions exist:
 1. The establishment of the street is initiated by the Planning Commission and is declared essential for the purpose of general traffic circulation, and the partitioning of land is an incidental effect rather than the primary objective of the street.

2. The tract in which the street is to be dedicated is an isolated ownership of one acre or less and such dedication in the judgment of the Planning Commission is not an attempt to evade the provisions of this Code governing the control of land partitioning.
 3. The tract constitutes or is part of a planned residential development approved as provided herein.
- C. In those cases where approval of a street is to be without full compliance with the regulations applicable to subdivision, a copy of the proposed deed shall be submitted to the City Recorder at least 21 days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Article VII of these regulations, shall be approved with such conditions as are necessary to preserve these standards.

SECTION 2 - Creation of Ways - Any easement of way providing access to property and which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future shall be in the form of a street in a subdivision. A private easement of way to be established by deed without full compliance with these regulations may be approved by the Planning Commission, provided it is the only reasonable method by which the rear portion of an unusually deep lot large enough to warrant partitioning into two or more parcels may obtain access, provided, however, that said access shall be in compliance with the access and egress provisions of the Zoning Ordinance of the City of Durham.

ARTICLE 6 - LAND PARTITIONING

SECTION 1 - No person, firm or corporation shall partition an area, parcel, or tract of land within the City without the approval of the Planning Commission in accordance with the standards and regulations contained in this Article. For purposes of this Code, "partition land" means to divide an area or tract of land into two parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created, and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by this Code. Partitioning of land in the City shall be approved upon compliance with the following procedure and conditions:

- A. There shall be submitted to the City Recorder four (4) copies of a sketch map 8-1/2" x 11", or 18" x 24" in size, with the following information:
 1. The date, north point, scale, and sufficient description to define the location and boundaries of the area or tract of land to be partitioned and its location.

2. The name and address of the record owner or owners and of the person who prepared the sketch map.
 3. The approximate acreage of the area or tract of land under a single ownership at the beginning of the calendar year within which the partitioning will occur, or such owner or owners of contiguous units of land under single ownership at the beginning of such year.
 4. For land adjacent to and within the parcel to be partitioned, the locations, names and existing widths of all streets and easements-of-way; location, width and purpose of all other existing easements; and location and size of sewer and water lines, drainage ways, and poles.
 5. The location of existing structures to remain in place.
 6. The lot layout, showing size and relationship to existing or proposed streets and utility easements.
 7. Such additional information as required by the City Recorder.
- B. The sketch map shall be submitted to the City Recorder for determination that the proposal will be compatible with the Comprehensive Development Plan of the City, and all other applicable ordinances and regulations. The City Recorder may require dedication of land and easements for the establishment of a road or street when necessary to conform to the Comprehensive Development Plan or other applicable ordinances or regulations of the City. In no event, however, shall the City Recorder require greater dedication of land than could be required if the parcel were subdivided. If the proposed partitioning outlined in the sketch map conforms to the provisions of the Comprehensive Development Plan and other applicable regulations and ordinances, the City Recorder shall certify on the sketch map that additional partitioning within the area or tract of land shown on the sketch map may occur without approval of the City Recorder.
- C. When a sketch map has been approved, all copies shall be marked and certified with the date and conditions, if any, of approval. Two (2) copies of the certified sketch map shall be returned to the applicant, and two (2) copies shall be retained by the City Recorder.
- D. In the event the City Recorder determines that a street or road must be established to conform with the provisions of the Comprehensive Development Plan, the street or road shall be constructed in accordance with the applicable design standards of this Code.

ARTICLE 8 - DESIGN STANDARDS

SECTION 1 - Principles of Acceptability - The subdivision shall be in conformity with any development plans and shall take into consideration any

preliminary plans made in anticipation thereof. The subdivision shall conform with the requirements of State laws and the standards established by these regulations.

SECTION 2 - Streets

A. General - The location, width, and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. Where location is not shown in the development plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas, or
2. Conform to a plan for the neighborhood approved or adopted by the City Council to meet particular situations where topographical or other conditions made continuance of or conformance to existing streets impractical.

B. Minimum Right-of-Way and Widths for Road Surfacing - The width of streets in feet shall not be less than the minimums shown in the following table:

Type of Street	Rights-of-Way Minimum	Road Surfacing Minimum
Primary Arterials	100	Varies
Collector Streets	60	34
Local Streets	40	24
Turn-Arounds for Dead-End Streets	45 radius	34 radius
Alley - Business or Industrial	20	20

C. Reserve Strips - Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land composing such strips shall be placed within the jurisdiction of the City under conditions approved by the City Council.

D. Alignment - All streets shall, as far as practicable, be in alignment with the existing streets by continuations of the center lines thereof. In no case shall the staggering of streets make a "T" intersection be so designed to allow a dangerous condition. Offsets of less than 100' will not be allowed.

E. Future Extension of Streets - Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets

shall extend to the boundary of the subdivision, and the resulting dead-end streets may be approved without a turn-around. Reserve strips including street plugs may be required to preserve the objectives of street extensions.

- F. Intersection Angles - Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except if topography requires a lesser angle, but in no case less than 60 degrees unless there is special intersection design. Streets shall have at least 25 feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet.
- G. Existing Streets - Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.
- H. Half Street - Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the City Council finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
- I. Cul-de-sacs - A cul-de-sac shall be as short as possible.
- J. Street Names - No street name shall be used which will duplicate or be confused with the names of existing streets in the County of Washington, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.
- K. Grades and Curves - Grades shall not exceed six percent (6%) on major or secondary arterials, ten percent (10%) on collector streets, or twelve percent (12%) on any other street. Center line radii of curves shall not be less than 300 feet on primary arterials, 200 feet on secondary arterials, or 100 feet on other streets.
- L. Streets Adjacent to Railroad Right-of-Way - Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way, provision shall be made for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets or the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

- M. Alleys - Alleys, 20 feet in width shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the Planning Commission. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.

SECTION 3 - Blocks

- A. General - The length, width, and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic, and recognition of limitations and opportunities of topography.
- B. Sizes - Blocks shall not exceed 1,200 feet in length, except blocks adjacent to arterial streets or unless the previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.
- C. Easements
1. Utility Lines - Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be either dedicated or provided for in the deed restrictions. Easements shall be a minimum of 10 feet in width, and centered on rear or side lot lines except for tie-back easements which shall be 6 feet wide by 20 feet long along lot side lines at change of direction points or easements.
 2. Water Courses - Where a subdivision is traversed by a water course, drainage way, channel or street, there will be provided a storm water easement of drainage right-of-way conforming substantially with the lines of the water course, and such further width, as will be adequate for this purpose, streets or parkways parallel to water courses may be required.

SECTION 4 - Lots

- A. Size and Shape - The lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and shall comply with this Code for the type of development and use contemplated. These minimum standards shall apply with the following exceptions:
1. In areas that will not be served by public sewer and/or public water supply, the lots shall also conform to any special requirements developed by the County Health Department with respect to problems of sewage disposal and/or water supply.
 2. Where property is zoned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for

the off-street service and parking facilities required by the type of use and development contemplated.

3. Where the tract constitutes or is part of a planned residential development approved as provided in this Code, and fully complied with specific conditions imposed at the time of its approval.

- B. Access - The subdividing of the land shall be such that each lot shall abut upon a public street.
- C. Double Frontage - Double frontage and reversed frontage lots should be avoided except where essential to provide separation of residential development from railroads, traffic arteries, adjacent non-residential uses or to overcome specific disadvantages of topography and orientation.
- D. Lot Side Lines - The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
- E. Building Lines - If special building setback lines are to be established in the subdivision, they should be shown on the subdivision plat or included in the deed restrictions.

SECTION 5 - Large Lot Subdivision - In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the Planning Commission requires that the blocks shall be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for the extension and opening of streets at such intervals as will permit a subsequent division of any parcel into lots of smaller size.

SECTION 6 - Open Spaces - Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.

Where proposed park, playground, or other public use provide the Comprehensive Development Plan is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision.

Where considered desirable by the Planning Commission and where a development plan of the City does not indicate proposed public use areas, the Planning Commission may require the dedication of reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

ARTICLE 8 - IMPROVEMENT REQUIREMENTS

SECTION 1 - Improvement Requirements - The following improvements shall be installed at the expense of the subdivider. All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of two (2) years following acceptance by the City. Such guarantee

shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer. Said cash or bond shall comply with the terms and conditions of this Code.

- A. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the City. Existing streets which abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the City Administrator with the advice of the City Engineer.
- B. Curbs shall be constructed in accordance with standards adopted by the City.
- C. Concrete sidewalks may be installed in accordance with standards adopted by the City.
- D. Sanitary Sewers - When the subdivision is within 300 feet of an existing public sewer main, sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the City. When the subdivision is more than 300 feet from an existing public sewer main, the Planning Commission, with the advice of the City Engineer, may approve alternate sewer disposal systems to County Department of Public Health Standards or recommend construction of an assessment project to facilitate hooking up to existing sanitary sewers.
- E. Drainage of surface water shall be provided as determined by the City.
- F. Underground Utility and Service Facilities - All utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground services. The City of Durham reserves the right to approve location of all surface-mounted transformers.
- G. Street light standards may be installed in accordance with regulations adopted by the City. The subdivider shall provide for the illumination of street lights for a period of two (2) years after installation.
- H. Street name signs shall be installed at all street intersections and dead-end streets and cul-de-sacs in accordance with standards adopted by the City. Stop signs and other signs may be required upon the recommendations of the City Engineer.
- I. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, at intermediate points and shall be of

such material, size and length as required by State law. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced to conform to the requirements of State law.

ARTICLE 9 - IMPROVEMENT ADMINISTRATION

SECTION 1 - Fees - No subdivision improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements, shall be undertaken except after the plans therefore have been approved by the City of Durham and a permit issued and the required fees paid.

SECTION 2 - Improvement Procedures - In addition to other requirements, improvements installed by the subdivider, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Code and to improvement standards and specifications followed by the City. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City in writing. All such plans shall be prepared in accordance with requirements of the City.
- B. Work shall not begin until the City has been notified in advance and if work is discontinued for any reason, it shall not be resumed until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. Provision for all underground utilities, including sanitary sewers and storm drains, installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
- E. Upon completion of the required improvements, the subdivider shall request a final inspection by the City Engineer. When the final inspection is completed, and when any necessary repairs or adjustments are made, the City Engineer shall recommend approval and acceptance of the improvements by the City Council. Acceptance of the improvements by the City shall constitute the release of any cash deposits or bonds filed to assure completion of the improvements; however, all improvements shall be guaranteed as to workmanship and material for a period of one (1) year following acceptance by the City.
- F. The subdivider or individual lot owners within the subdivision may request building permits, sewer permits, or water service for not more than fifty percent (50%) of the platted lots within the subdivision prior to the completion and acceptance by resolution of the Council of

all required subdivision improvements. No permits or service shall be issued until the City Engineer has determined that the required subdivision improvements are sufficiently complete to assure that the health and safety of the residents will not be endangered. Before any service is offered by the City through water or sewer facilities, the lines shall first be tested and approved by the City Engineer, and as-constructed drawings shall have been furnished by the subdivider. The roadway surfaces and drainage facilities shall be sufficiently complete to assure that year-round access will be available to each lot for which permits are issued and that no damage to said lot will result from the fact that the improvements are not totally complete. Use of the improvements prior to the final approval and acceptance by the City shall not act to release any cash deposits or bonds filed to assure completion of the improvements. No permits or service shall be approved for lots in excess of fifty percent (50%) of the platted lots within the subdivision until such time as all required subdivision improvements have been accepted by resolution of the City Council.

ARTICLE 10 - EXCEPTIONS, VARIANCES AND ENFORCEMENT

SECTION 1 - Exception in Case of Large Scale Development - The standards and requirements of these regulations may be modified by the Planning Commission in the case of a plan and program for a complete community, a neighborhood unit, a large-scale shopping center, or large industrial area development, providing the modifications are not detrimental to the public health, safety, and welfare, and providing the Planning Commission determines there is provision for adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the developed tract and its relation to adjacent areas and for such covenants or other legal provisions as will assure conformity to and achievement of the plan.

SECTION 2 - Variance Application - When necessary, the Planning Commission may authorize conditional variances to the requirements of these regulations. Application for a variance shall be made by a petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative map of the subdivision. In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary that the City Council shall find the following facts with respect thereto:

- A. That there are special circumstances or conditions affecting the property.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and extraordinary hardships would result from strict compliance with these regulations because of the special circumstances or conditions affecting the property.
- C. That the granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the vicinity in which the property is situated.

SECTION 3 - Variances

- A. In granting necessary variances, the Planning Commission shall adhere substantially to the objectives of the regulations to which variances are granted. The imposition of any conditions necessary for this purpose shall be specified in granting the variance.
- B. In granting a variance, the Planning Commission shall make a written record of its findings and the facts in connection therewith, and shall specifically and fully set forth the variance granted and the conditions designated. The City Recorder shall keep such findings on file as a matter of public record.

SECTION 4 - Penalties for Violation - Any person offering to sell, contracting to sell, or selling land contrary to the provisions of these regulations shall be punishable as provided by law including ORS 92.990.

SECTION 5 - Temporary Sales Office - The Planning Commission of the City may, with the consent of the owner, by motion, grant permission for the use of any real property within this City as and for a temporary sales office or offices for the purpose of facilitating in the sale of real property in any subdivision or tract of land within this City, but for no other purpose. The permission granted shall be of a duration not to exceed three years from the date of the motion of allowing the same, or such shorter period of time as the Planning Commission shall deem advisable and provide in the motion granting and allowing the same. The office shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated. The property to be used for a temporary sales office shall not be permanently improved for the purpose, providing, however, that a dwelling structure designed primarily for other purposes may be used temporarily for a sales office. The granting of permission to use real property for a temporary sales office shall not be construed as granting a temporary zone change and the Planning Commission may impose such terms and conditions upon the granting of the permission as authorized by this section, as it deems advisable.

CHAPTER IV - DESIGN REVIEW BOARD

ARTICLE 1 - ADMINISTRATIVE PROVISIONS, GENERALLY

There is hereby established the Design Review Board whose members, terms, officers and manner of transacting business shall be as follows:

SECTION 1 - Composition of Board and Qualifications of Members - The Board shall consist of five regular members who shall be members of the Planning Commission. The Board shall also include a member of the City Council, who shall serve in ex-officio capacity. The Board may variously include as professional ex-officio members an architect, an engineer, an urban planner, and/or a landscape architect. The professional ex-officio members shall, whenever possible, be residents of the City.

SECTION 2 - Appointment and Terms - The regular members of the Board shall be appointed by the Chairman of the Planning Commission. The ex-officio member shall be appointed by the Mayor. The professional ex-officio members shall be appointed by and serve at the pleasure of the Chairman. Terms of regular members and the ex-officio member shall be for one (1) year, beginning the first regularly scheduled Planning Commission meeting of each calendar year.

SECTION 3 - Vacancies and Removal - Any vacancy of a regular member shall be filled for the remainder of the unexpired term of the original appointment. The Chairman of the Planning Commission may remove any regular member for official misconduct or non-performance. Unexcused absences from three (3) consecutive Board meetings, including regular and work sessions, shall constitute non-performance. An excused absence may be obtained by contacting the Chairman or Secretary of the Board at least 24 hours prior to any scheduled Board meeting or session.

SECTION 4 - Chairman and Secretary - The Chairman of the Planning Commission shall appoint the Chairman and Secretary of the Design Review Board, who shall be regular members.

SECTION 5 - Voting - Three (3) regular members shall constitute a quorum for the transaction of business. Each regular member shall have one (1) vote. A majority vote of the regular members present shall be required for all Board actions. The ex-officio member and the professional ex-officio members shall have the same voting rights as the regular members, except that they will not be counted in determining a majority.

SECTION 6 - Meetings and Records - The Board shall hold meetings whenever (a) required by the Planning Commission or (b) whenever called by the Chairman of the Design Review Board. The deliberations and proceedings of the Board shall be public. The secretary shall keep minutes of the Board proceedings and such minutes shall be public record.

SECTION 7 - Rules - The Board may adopt and amend rules to govern the conduct of its business.

ARTICLE 2 - JURISDICTION OF THE BOARD

SECTION 1 - Scope - The Design Review Board shall review and prepare development recommendations regarding planned developments for final review, revision, and action by the Planning Commission. The Board shall also review and prepare recommendations of any other matter referred to it by the Planning Commission.

ARTICLE 3 - PROCEEDINGS AND ACTIONS OF THE BOARD

SECTION 1 - Procedure - Upon approval by the Planning Commission of a preliminary development plan and program, or upon referral of any other matter by the Planning Commission, the applicant for development shall submit to the Board all relevant drawings, sketches, elevations, site plans, landscape plans, circulation plans, and supplemental information as may be required of the applicant in accordance with provisions of the planned development article of this chapter. In addition, the Board may require of the applicant any other information it deems necessary in order to prepare development recommendations to the Planning Commission.

SECTION 2 - Notice - At least three (3) days prior to the date that the Board begins reviewing and deliberating on the application for development, the City Recorder shall post a notice of the meeting in or at the City Hall. The notice shall contain a brief description of the subject property, either by street address, tax account number, metes and bounds, or combination thereof, the time and place that the Board will meet, and the nature of the proposed development. Failure to post notice as specified in this section shall not invalidate any decision or proceeding of the Board.

SECTION 3 - Recommendation to Planning Commission - After one or more meetings considering an application for development, the Board shall prepare development recommendations. These recommendations may, at the option of the applicant, be included as part of his proposed final plan and program. In any event, the recommendations by the Board shall be identified.

SECTION 4 - Implementation of Final Plan and Program - After approval by the Planning Commission of the final development plan and program, the Design Review Board shall review all proposed substantial changes to the development and may (a) approve or modify the change or (b) deny the change. The Building Official shall determine whether any proposed development change is substantial. If the applicant does not agree with the decision of the Board, he may appeal the decision to the Planning Commission at the next regularly scheduled Planning Commission meeting. If an appeal is sought, the provisions for appeals described in Chapter VI - Administrative Procedures, shall apply.

CHAPTER V - GREENWAYS

ARTICLE 1 - ADMINISTRATIVE PROVISIONS, GENERALLY

SECTION 1 - Statement of Intent - "Greenways" are considered to be land unsuitable for development because of locations within the 100-year floodplain or within the drainage way associated with the floodplain or the slopes along these areas. Greenways may also be land designated for park development or other land designated as a Greenway area.

This Chapter of the Code seeks to protect and preserve natural water storage areas, floodplains and drainage way areas and other Greenways by discouraging or prohibiting incompatible uses except in those instances where findings may properly be made by the Planning Commission or City Council allowing limited use of such areas.

SECTION 2 - Definitions - In this Chapter, the following words and phrases shall be construed to have the specific meanings assigned to them as follows:

- A. "Fill" means any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled or transported and includes the conditions resulting therefrom.
- B. "Flood" means a temporary rise in stream flow that results in water overtopping stream channel.
- C. "Flood hazard" means an immediate danger to property or health as the result of inundation of the floodplain.
- D. "Floodplain" means the relatively flat area or lowlands adjoining the channel of a river, stream, water course or other body of water which has been or may be covered by floodwaters within the area of applicability defined by the floodplain district.
- E. "100-year floodplain" is defined as those areas within the City of Durham inundated by the 100-year regulatory flood as defined by the U. S. Army Corps of Engineers.
- F. "Flood surface elevation" - those elevations depicted on the floodplain series maps are based on near sea level datum and their locations are an indication of the surface elevations at that location.
- G. "Obstruction" means any dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, bridge, conduit, culvert, building, gravel, refuse, fill, structure or matter in, along, or across or projecting into any channel, water course, or floodplain drainage ways areas which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of health or property.

- H. "Regulatory flood" means the flood used to define the outer boundary lines of the floodplain district. The maximum flood predicted to occur within each 100 years.
- I. "Drainage ways" are defined as those areas associated with the floodplain which convey concentrations of water over or near the surface of the land whether or not there is a visible channel and include portions of slopes down which water travels to reach said areas.
- J. "Wetlands" are defined as those areas where the water table seasonally is within 1-1/2 feet or less of the surface due to low-lying, poorly drained soils.
- K. "Greenways" are defined as unbuildable lands and other lands that establish a greenway system that will (a) tie together recreation areas, schools, and their service areas; (b) provide protective buffers between incompatible land uses; (c) reduce flood hazard by restricting development along natural drainage ways; (d) provide opportunities for passive recreation activities; (e) afford alternative pedestrian and bicycle circulation routes separated from the street system and motorized vehicles; and (f) preserve the amenity of the area.

ARTICLE 2 - USES

SECTION 1 - Permitted Uses - The following uses by their nature do not threaten obstruction of water flow in the floodplain and do not impair the water storage capacity of the floodplain and shall be permitted within the floodplain subject to the limitations in this Chapter; however, each and every request for any development within any portion of the Greenway area shall require a permit.

- A. Off-street parking and maneuvering areas, access ways and service drives located on the ground surface. Excavation, grading and paving may occur to construct said facilities, however, no fill shall be allowed for construction of said facilities other than gravel for a paving base and only an amount of gravel commensurate with City construction standards for said facilities shall be allowed:
- B. Accessory residential uses such as lawns, gardens or play areas not causing substantial obstructions to floodwaters and including fences designed to minimize the obstruction of floodwaters and flood-carried debris.
- C. Roadways, bridges or utility structures designed to not significantly impede the flow of floodwaters;
- D. Agricultural uses conducted without locating a structure in the floodplain district including a boundary fence designed to minimize the obstruction of floodwaters and flood-carried debris.

- E. Community recreational uses such as bicycle and pedestrian paths, archery range, athletic field or parks. The recreational use shall not include any permanent structures causing a significant obstruction to the flow of floodwaters.
- F. Public and private conservation areas for the conservation of water, soil, open space, forest or wildlife resources.

SECTION 2 - Prohibited Uses and Activities - The following uses and activities are prohibited in Greenways except pursuant to special permit granted by the Planning Commission based on findings as provided herein.

- A. Filling;
- B. Permanent structures permitted in other zoned areas of the City, except those provided as permitted uses;
- C. Dumping of garbage, rubbish, debris, junk, or any other waste;
- D. Excavating;
- E. Removing any live vegetation other than poison oak, tansy ragwort, blackberry or any other noxious vegetation identified by the City Recorder.
- F. Subsurface sewerage disposal septic tanks and drain fields.
- G. Any temporary structure which by its nature cannot be readily removed from the floodplain area during periods of flooding and which would significantly impede or interfere with the flow of floodwaters within the district;
- H. Any change in the topography or terrain which would have a substantial tendency to change the flow of waters during flooding periods or which would increase flood hazard or alter the direction or velocity of the floodwater flow.

SECTION 3 - Non-Conforming Uses - Any pre-existing condition or structure within the Greenway district is subject to the non-conforming use provisions of this Code.

SECTION 4 - Special Permits or Exceptions - Application for a "Special Use Permit" may be approved or denied by the Planning Commission following a public hearing. All applications for a Special Use Permit shall be supported by the following information to enable the Planning Commission to adequately determine whether the proposed use will conform to the purposes and guidelines as set forth in this Chapter. At the applicant's expense, the City shall reserve the right to retain a registered professional engineer with experience in hydraulic principles and processes for the purpose of reviewing evidence submitted in support of any application for Special Use Permits.

- A. Plans drawn to scale, submitted in triplicate as prepared by a registered professional engineer with experience in hydraulic and hydrologic principles and processes showing the nature, location, dimensions, elevations, and topography of the site; the location of existing and proposed structures located upon the site; existing and proposed fill areas, and the relationship of these to the location of the stream channel and proposed methods for controlling erosion.
- B. Any documentation, photographs, water marks, and similar evidence offered in support of the claim that the site or area in question lies above high water as defined by the regulatory flood.
- C. If it is determined by the Planning Commission that the proposed use is within the 100-year floodplain as herein defined, the applicant shall furnish such further information, data and evidence as may be reasonably available to support the granting of the permit in accordance with the following guidelines, in the absence of which said petition shall be denied by the Planning Commission.
 - 1. Proposed improvements will not change the flow of floodwaters during future flooding such as to cause a compounding of flood hazards and to thereby seriously interfere with the intent and purposes of the floodplain district regulations.
 - 2. No structure, fill, storage or other uses shall be permitted which would reduce the capacity of the floodplain area or raise the flood surface elevation on adjacent properties, or create a present or foreseeable hazard to public health, safety and general welfare.
- D. Affirmative documentation that the proposed action will not adversely impact runoff, erosion, ground stability, water quality, ground water level, or flooding and that the site can support the proposed modification or structure, as designed, without damage.
- E. A copy of the permit required by the State of Oregon under ORS 541, for removal or filling of waterways, or positive evidence demonstrating that the provisions of this statute do not apply.

SECTION 5 - Standards for Permitted Structures - Any structure or additions to existing structures permitted within the Greenways shall comply with the following standards:

- A. Permitted structures, such as electrical and service equipment, etc., shall be constructed at or above the regulatory flood protection elevation. Utility openings shall be sealed and locked.
- B. The lowest flood elevation of a structure designed for human occupancy shall be at least one and one-half feet above the flood surface elevation.

- C. The lower portions of any structure shall be flood-proofed or otherwise protected from significant damage or inundation to a minimum flood surface elevation of the regulatory flood.
- D. The design of substructures and structural members of all buildings shall be designed to withstand expected water pressure and velocities as well as minimize flood risk conditions.
- E. The provisions of Chapter 70 ("Excavation and Grading") of the Uniform Building Code shall apply to all buildings on or adjacent to steeply sloping land.

ARTICLE 3 - TREATMENT OF CREATED HARDSHIPS

It is the intention of this City to acquire for public use all lands within the Greenways. All developments which include portions of the Greenways will be conditioned to dedicate appropriate lands to the City if and when development takes place. This will create certain hardships. It will be the policy of the City to allow increased density of buildable portions of effected lands in exchange for public dedications, or other applicable allowances as determined by either the Planning Commission or the City Council. Additional allowances shall mean, but shall not be limited to additional parking within the areas increased building coverage on the buildable land portion, increased height, etc. It must be realized that the City will protect the community's interests generally and is able to use its authority to do so.

ARTICLE 4 - APPEAL TO CITY COUNCIL

An appeal of any decision by the Planning Commission may be filed with the City Recorder for hearing by the City Council as provided by Chapter 18.92.

ARTICLE 5 - THE U.S. ARMY CORPS OF ENGINEERS

The Corps of Engineers floodplain study and the CH2M Hill storm water drainage study be made a part of this Code following receipt of the studies and adoption of this Code.

CHAPTER VI. - ADMINISTRATIVE PROVISIONS

ARTICLE 1 - LEGISLATIVE LAND USE ACTION

SECTION 1 - Definitions - Legislative land use actions, as applied to the City of Durham, shall mean a decision rendered by the City Council resulting in any of the following:

- A. Change in the Comprehensive Development Plan, including any change of text or map designations.
- B. Change in the text of this Code.
- C. Change in any zoning designation for any property as shown on the official zoning map where such change requires a change in the Comprehensive Development Plan text and/or map, and/or change in the text of this Code. Any other such zone change shall be deemed of quasi-judicial nature.

SECTION 2 - Petition for Legislative Land Use Action - A legislative land use action may be initiated by an order of the City Council, a resolution by a majority of the whole Planning Commission, or by an applicant having standing in the City of Durham. Unless authorized by an order of the City Council, all petitions for legislative land use action shall be considered in accordance with the annual review process described herein. If authorized by an order of the City Council, a petition for legislative land use action may be considered at any time prior to the annual review process. In such an instance the annual review procedures for legislative land use action shall be followed.

SECTION 3 - Annual Review - The annual review of the Comprehensive Development Plan and implementing ordinances shall begin with the petition deadline 60 days prior to the first regularly scheduled meeting of November. Each such petition for legislative land use action shall contain information including, but not limited to, the following:

- A. Abstract, stating the general purpose of petition.
- B. Words, terms, sections, articles, chapters, or ordinances proposed for change, replacement, elimination or addition, using specific citations and references.
- C. Maps, tables or sketches showing how petition would affect specific properties, areas, locations and land uses of the City.
- D. How the proposed change would comply with statewide planning goals.
- E. How the public is best served with implementation of proposed change.

SECTION 4 - Filing of Petition, Fees, Preliminary Review as to Form

- A. Petitions for legislative land use change shall be filed before the annual review deadline with the City Recorder. Petitions shall be made available to the public and shall remain on file until such time as the disposition of the petition is clearly settled.
- B. There shall be no fees for petitions for legislative land use actions which are filed in accordance with the annual review process. The City Council may set fees for petitions for legislative land use action considered out of the annual review process.
- C. The City Recorder shall conduct a preliminary review of petitions for legislative land use change to ensure that such petition is complete as to form. If the Recorder determines that any part of the petition is deficient, such determination shall be made not later than 15 days after the filing deadline. The City Recorder may propose specific modifications of the petition to the applicant. The applicant shall have until 30 days after the filing deadline to supply such additional information as may be required by the City Recorder. However, failure to supply such additional information shall not prevent consideration of the petition.

SECTION 5 - Notice of Public Hearing on Legislative Land Use Petition

- A. Notice of the initial hearing before the Planning Commission shall contain the following information:
 - 1. The date, time, and place of the hearing.
 - 2. The nature of the proposed proceeding.
 - 3. A description of how property(ies) may be affected by the change, including identification of specific property(ies) to be affected.
 - 4. Notification that all interested parties may appear and be heard.
 - 5. Notification that the initial hearing may be continued from time to time to date(s) and time(s) certain without additional published notice.
- B. Notices shall be sent by first class mail to the following persons:
 - 1. The applicant.
 - 2. All property owners in the City of Durham, as shown on the records of the Washington County Assessor at the time of mailing.
 - 3. All local, state and federal government agencies which the City Recorder determines to have an interest in the hearing.

- C. Notice of legislative proceeding shall be given by publication in a newspaper of general circulation in the area effected at least fifteen (15) days prior to the date of the initial hearing.

SECTION 6 - Public Hearing and Procedures at Hearing

- A. The initial public hearing on petitions for legislative land use change shall be conducted by the Planning Commission. All petitions for legislative land use change shall be considered during the same initial public hearing. The order of consideration of petitions shall be by the order in which petitions were first filed with the City Recorder, unless the Chairman of the Planning Commission and the applicant(s) agree on altering the order of consideration. Procedures at the initial hearing shall include the following:
1. The Planning Commission Chairman shall announce the petition to be considered.
 2. The City Recorder shall make a summary reading of the petition only for the purpose of informing the general audience of the nature of the petition.
 3. The applicant(s) shall make a presentation. Additional information not included in the initial petition may be presented.
 4. All other persons desiring to testify on the petition shall make their presentations in an order determined by the Planning Commission Chairman.

SECTION 7 - Continuation of Hearing, Deliberations

- A. The Planning Commission may continue the legislative public hearing to a time and date certain, and may specify the nature of the items to be considered.
- B. Deliberations by the Planning Commission on any petition shall begin after the close of the legislative hearing. Deliberations shall be made only during scheduled meetings of the Planning Commission.

SECTION 8 - Findings Required for Legislative Action - In recommending adoption of any legislative land use change, the Planning Commission shall find the following:

- A. The petition for legislative land use change meets the definition of such change described in this Code.
- B. The change affects a class of property(ies) or persons.
- C. The change is consistent with statewide and regional planning goals.

SECTION 9 - Recommendation - By a vote of the majority of the whole number of Planning Commission members, a legislative land use change may be

recommended by resolution to be adopted by the City Council. Such resolution shall be delivered to the City Council and shall contain the following:

- A. A copy of the initial petition for legislative land use change.
- B. A copy of the minutes of the hearing and meeting(s) at which the petition was considered and deliberated upon.

SECTION 10 - Final Order for Legislative Land Use Action - The City Council shall conduct a public hearing in accordance with its rules for hearings on any resolution for legislative land use change made by the Planning Commission. This shall be a review hearing and need not be a full evidentiary hearing. After the hearing, and in accordance with its rules, the City Council may adopt the proposed legislative land use change and order its incorporation into the Comprehensive Development Plan, Land Development Code, or other implementing ordinances.

SECTION 11 - Appeals - Should the Planning Commission not recommend adoption of any proposed legislative land use change, an appeal to the City Council may be made in accordance with the provisions for appeal described in this Code.

ARTICLE 2 - QUASI-JUDICIAL ACTIONS

SECTION 1 - Quasi-Judicial Proceedings, Generally

- A. Quasi-judicial proceedings shall be required of all applications for: quasi-judicial zone change, conditional uses, variances, temporary permits, subdivisions and major partitionings, and non-conforming use actions required.
- B. A quasi-judicial proceeding, unless otherwise specifically provided for in this Code, may only be initiated by order of the City Council, or a majority of the whole Planning Commission, or by the petition of the owner or contract purchaser of subject property.
- C. A quasi-judicial proceeding initiated by the petitioner shall be filed with the City Recorder on forms prescribed by the Planning Commission. Any application which is incomplete by reason of failing to contain such information deemed necessary to inform the reviewing body as to the nature of the proceeding applied for shall be denied.

SECTION 2 - Definitions of Actions Requiring Quasi-Judicial Proceedings

- A. Quasi-Judicial Zone Change - Zone changes of a quasi-judicial nature must conform with the Comprehensive Development Plan and must meet the following conditions:
 - 1. The original zone change designation was a mistake such that a correction by rezoning would allow the subject property(ies) to conform to the Plan; and/or

2. There can be demonstrated that the characteristics of the subject property(ies) or its (their) surrounding area have significantly changed since the original zoning such that rezoning would allow the subject property(ies) to conform to the Plan; and/or
 3. The proposed rezoning does not result in a general rule or policy which is applicable to an open class of individuals or situations; and/or
 4. The proposed rezoning is not fairly debatable.
- B. Conditional Uses - Conditional uses listed in this Code may be permitted or altered upon authorization by the Planning Commission. In permitting a conditional use or the modification of a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified in this Code, any additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding property(ies) or the City as a whole.
- C. Variances - The Planning Commission may grant a variance to dimensions required in zones only in the event that all of the following conditions are found:
1. Exceptional or extraordinary circumstances apply to the property which do not apply to other property in the same zone or vicinity, and results from lot size or shape existing legally prior to the date of adoption of this Code, topography, or other circumstances over which the applicant has no control.
 2. The variance is necessary for the preservation of a property right of the applicant substantailly the same as owners of other property in the same zone or vicinity.
 3. The variance would not be materially detrimental to the purposes of this Code or to property in the same zone or vicinity, or otherwise conflict with the objectives of the Code and Plan.
 4. The variance requested is the minimum variance which would alleviate hardship.
- D. Temporary Permits - Temporary uses listed in this Code may be permitted or altered upon authorization by the Planning Commission. In permitting a temporary use or the modification of a temporary use, the Planning Commission may impose, in addition to those standards and requirements expressly specified in this Code, any additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding property(ies) or the City as a whole. In issuing Temporary Use Permits, the Planning Commission shall specify the date of expiration of such permit. In no event shall a temporary Permit be issued for more than one (1) year, without being renewed by the Planning Commission after review in public hearing.

- E. Subdivision and Major Partitioning - Partitioning of land resulting in subdivision or major partitioning, as defined in this Code.
- F. Planned Development - Application for planned development as defined in this Code.
- G. Non-Conforming Uses
 - 1. Continuation of Non-Conforming Use or Structure - Subject to the provisions of ORS 215.130, and subsequent provisions of this Code, a lawful non-conforming structure or use may be continued. The extension of a lawful non-conforming use to a portion of a structure which was arranged or initiated for the lawful non-conforming use at the time of passage of this Code is not considered an enlargement or expansion of a non-conforming use.
 - 2. Discontinuance of Non-Conforming Use
 - a. If a non-conforming use involving a structure is discontinued or if a non-conforming trailer house or mobile home is removed for a period of one (1) year, further use of the property shall conform to this Code.
 - b. If a non-conforming use not involving a structure is discontinued for a period of six (6) months, it shall not be re-established unless specifically approved by the Planning Commission.
 - 3. Change of Non-Conforming Use
 - a. If a non-conforming use not involving a structure is replaced by another use, the new use shall conform to this Code.
 - b. If a non-conforming use involving a structure is replaced by another use, the new use shall conform to this Code unless the Planning Commission determines that such structure is suitable only for another non-conforming use no more detrimental to surrounding property(ies) than the one replaced.
 - 4. Destruction of Non-Conforming Use - If a non-conforming structure or use is destroyed by any cause to an extent exceeding 80 percent of its fair market value, as indicated by the records of the Washington County Assessor, and is not returned to use within one (1) year from the date of destruction, a future structure or use on the site shall conform to this Code, except that replacement of non-conforming signs shall be in accordance with provisions of this Code.
 - 5. Completion of Structure - Nothing contained in this Code 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 work has commenced prior to the adoption of

this Code, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the date the building permit is issued.

6. Enlargement or Expansion of a Non-Conforming Use - A non-conforming use existing at the time that zoning was or is adopted in the area of such use, or changed in the area, may be expanded if the Planning Commission finds that such expanded use meets all conditions for variance.

SECTION 3 - Application Process for a Quasi-Judicial Proceeding

- A. Pre-Application Conference - A pre-application conference between the applicant and the City Recorder, or a designated representative, shall be conducted to ensure the following:

1. The application is consistent with the substantive matters relevant to procedural provisions of the Plan and Code;
2. The applicant is aware of all procedural matters relevant to processing the application for a quasi-judicial proceeding; and
3. The applicant is aware of the responsibilities and type of information required of the applicant in order to fully inform the reviewing body.

- B. Notice of Public Hearings on Proposed Quasi-Judicial Proceedings

1. Notice of the initial hearing before the Planning Commission shall contain the following information:
 - a. The date, time, and place of hearing.
 - b. A description of the property, reasonably calculated to give notice as to its actual location, which shall include, but not be limited to, the tax map designation of the Washington County Assessor.
 - c. The nature of the proposed proceeding.
 - d. Notification that all interested parties may appear and be heard.
 - e. Notification that the hearing may be continued from time to time to a date(s) and time(s) certain without additional published notice.
 - f. Notification that the hearing shall be held pursuant to the rules of procedure adopted by the City Council and Planning Commission respectively, for the conduct of such hearings pursuant to this Code.
2. Notices shall be sent by mail to the following persons:
 - a. The applicant.

- b. All property owners within at least 250 feet of the property which is the subject of the application. The records of the Washington County Assessor shall be used and persons whose names and addresses are not on file at the time of application need not be notified of the proceeding.
3. Notice of quasi-judicial proceeding shall be given by publication in a newspaper(s) of general circulation in the area affected at least ten (10) days prior to the date of the initial hearing. Such notice shall also be posted in or at the City Hall at least ten (10) days prior to the date of such initial hearing.

SECTION 4 - Initial Hearing on Quasi-Judicial Application

- A. Hearings shall be conducted in accordance with the rules of procedure adopted by the Planning Commission and/or City Council for the conduct of quasi-judicial proceedings.
- B. The Commission shall hold at least one (1) public hearing on an application within 60 days of receipt thereof, unless such time limitation be extended with the written consent of the applicant.
- C. The decision of the Planning Commission may be to approve the application as submitted, to deny the application, or to approve the application with on-site conditions as may be necessary to comply with the Plan and Code. Alternative recommendations may be substituted by the Commission subject to the following:
 1. An alternative zone change is in the same general classification and complies with the Plan.
 2. The City Recorder shall have included in the public hearing notice that such additional considerations may be reviewed by the Commission.
 3. The applicant may elect to refuse to accept the alternative recommended by the Commission.
 4. Any alternative action shall be based upon findings justifying the alternative action.

All decisions made by the Commission and/or Council shall be based upon findings approved by the reviewing body and entered into the record.

- D. At least three (3) days prior to the hearing date on a proposed quasi-judicial proceeding, the City Recorder shall make available to the public the staff report reviewing the application. A copy of such report shall be sent to the members of the Planning Commission, the applicant, the City Attorney, and other City departments which have an interest. Reports may also be sent to other persons requesting such report. Such other persons may be charged a reasonable fee representing the cost of reproduction and overhead as determined by the City Recorder.

The staff report may be supplemented only at the hearing on the application.

- E. If final determination on an application is for denial by the Commission, the Council, or the Courts, no new application for the same of substantially similar proceeding shall be filed at least six (6) months from the date of the final order.

SECTION 5 - Pre-Hearing Contacts - No members of the Planning Commission or the City Council shall:

- A. Communicate directly or indirectly with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to appear and participate; nor
- B. Take notice of any communication, reports, staff memoranda, or other material prepared in connection with the particular case unless the parties and general public are afforded an opportunity to consider such material and contest the material so noticed; nor
- C. Inspect the site with any party or his representative unless all parties are given an opportunity to be present.

SECTION 6 - Continuation of Public Hearing - The reviewing body may continue from time to time the initial hearing to gather additional information on the application and no additional notice need be given if at each hearing the motion for continuation is to a time, date, and location certain, unless additional notice in a specified manner is ordered by the reviewing body.

SECTION 7 - Orders - After every proceeding and at the conclusion of the deliberation of the reviewing body and the making of a decision pertaining to the application, the designated representative of the reviewing body shall read the decision of the reviewing body either denying or approving the application.

- A. The findings upon which the reviewing body bases its decision shall be included in every decision and such findings shall be supported by designated evidence introduced into the record of the proceedings.
- B. All conditions imposed upon approval shall be enumerated and the following limitations shall be applicable to conditional approval:
 - 1. Conditions shall be fulfilled within the time limitations set forth in the approval thereof or, if not, time may be reset reasonably.
 - 2. Such conditions shall be reasonably conceived to fulfill public needs as recognized by the Plan and emanating from the proposed land use as set forth in the application in the following respects:
 - a. Protection of the public from potentially deleterious effects of the proposed use; and/or

- b. Fulfillment of the need for public service demands created by the proposed use.
 3. Changes or alterations of conditions required by the reviewing body shall be processed as a new quasi-judicial proceeding.
 4. Such conditions relating to situations occurring on the site of the proposed land use, consideration may be set forth in a contract executed between the City Council, acting by and through the Mayor, and the property owner and any contract purchasers. If a contract be required, no building permits for the use applied for shall be issued nor shall the use applied for be deemed approved until such properly executed contracts is filed with the City Recorder. Such contract shall be properly signed and executed within 30 days after approval of the application with conditions provided, however, that the Council may grant reasonable time extensions in cases of practical difficulty. Such contracts shall not restrict the power of subsequent administrative action with or without conditions. In return for the granting of the application, the property owner, contract purchaser and their heirs, successors, or assigns in recognition of the need occasioned by the applicant, shall perform those conditions set forth therein for the benefit of the public's health, safety and welfare. Said contract shall be enforceable against the signing parties, their heirs, successors and assigns by the City by appropriate action at law or suit in equity. Such ability to contract does not apply to conditions that relate to situations located off the site of the proposed land use considerations.
 5. Failure to fulfill any condition of the grant of application within the time limitations provided may be grounds for the initiation of legal or quasi-judicial proceeding to revoke the original action taken at the quasi-judicial proceeding.
 6. A bond, in a form acceptable to the City Recorder, or a cash deposit from the property owner or contract purchasers in such an amount as will assure compliance with the conditions imposed pursuant to this section, may be required. Such bonds shall be posted at the time the contract containing the conditions for approval is filed with the City Recorder.
- C. Within ten (10) days after the determination by the reviewing body the City Recorder shall provide a written and duly executed order commemorating the action of the reviewing body to the applicant and those parties providing a written request, with mailing address, for such notification.

SECTION 8 - Appeal

- A. The decision of the Planning Commission shall be final unless a petition of appeal is filed with the City Recorder, or by registered mail return

receipt requested, within ten (10) days of the signing of the order and findings of fact.

- B. Every petition of appeal filed shall contain the following:
1. A reference of the application sought to be reviewed.
 2. The date of decision of the Planning Commission's action.
 3. A statement of the interest of the party filing the petition for appeal, setting forth all criteria necessary and upon which he will rely to establish his standing as an aggrieved party.
 4. The specific grounds relied upon in this petition for appeal, setting forth with particularity the error and the basis of error sought to be reviewed.
 5. Failure to comply with requirements of this subsection and to set forth said contentions with particularity, shall be a jurisdictional defect and result in the dismissal of the appeal by operation of this Code.
 6. The petition for appeal shall be accompanied by the required fee.
- C. The petition for appeal shall be reviewed by the City Council in accordance with its own adopted rules of procedure and this Code. The Council shall review the recommendation of the Planning Commission by review of the record only.
- D. Action by the Council
1. The Council may affirm, reserve, or amend the action of the Planning Commission and may grant approval subject to additional conditions reasonably necessary to carry out the Plan as provided herein. The Council may also remand the matter back to the Planning Commission for additional findings and information or to make a determination consistent with the decision of the Council. For all cases, the Council shall make findings as justification for its action. Said findings and order shall be filed with the City Recorder with copies sent to the parties affected.
 2. Action by the Council shall become final upon signing of the order and findings of fact.
 3. Appeal of the Council action shall be by writ of review only. Should the action of the Council be affirmed on appeal, the costs of transcribing the tape recorded plus attorney's fees incurred, may be recovered from the unsuccessful applicant.

ARTICLE 3 - ENFORCEMENT, EXCEPTIONS, MISCELLANEOUS PROVISIONS, FEES

SECTION 1 - Enforcement

A. Land Use Permits

1. Before any change in the use of land or structure shall be made, the owner or his agent shall obtain a Land Use Permit, which shall be issued only if the proposed use complies with the provisions of this Code and any other applicable ordinance.
2. Uses of land or structures existing at the effective date of this Code and which comply with the applicable provisions of this Code shall be deemed to be in compliance with this section and no permit shall be required unless a change in the use of land or a structure is to be made.
3. In cases where a building permit is required, such building permit shall be deemed to be a Land Use Permit.

B. Utility Extension - No utility franchised by the Oregon Public Utilities Commissioner and no special service district providing water and sanitary sewers shall provide services to any new building, structure, or site, or any service lines to such building, structure, or site for which a building permit or siting permit has not been obtained.

C. Penalties - This Code may be enforced in any manner now or hereafter authorized by law. Any person using land in violation of this Code shall be punished, upon conviction, by a fine of not more than \$100 for each day of violation where the offense is a continuing offense, but such fine may not exceed \$1,000. Or a fine of not more than \$500 where the offense is not a continuing offense. In addition, the City Council, the District Attorney, or a person whose interest in real property in the City of Durham is or may be affected by the violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, or abate the unlawful use.

SECTION 2 - Exceptions

- A. If a lot or the aggregate of contiguous lots as recorded in the office of the City Recorder prior to the time this Code was adopted, has an area or dimension which does not meet the lot size requirements of the zone on which the property is located, the holding may nevertheless be occupied by a use permitted in the zone. If there is an area deficiency, residential use shall be limited to single family dwelling units. No dwelling unit shall be built on a lot with less than 4,000 square feet.
- B. The City Recorder may authorize the alteration of boundary lines of adjoining properties provided that no new lots are created and provided

that each lot size and dimension resulting after the boundary adjustment conforms with the schedule for development standards of the remaining portions thereof.

SECTION 3 - Miscellaneous Provisions

- A. Interpretation - Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or of any other ordinance or resolution, the provisions which are more restrictive shall govern. Where ambiguities are found in the true meaning or intentions of this Code, the Planning Commission may clarify such ambiguities by rendering interpretations.
- B. Authorization of Similar Uses - The Planning Commission may permit in a particular zone a use not listed in this Code, provided the use is of the same general type as the uses permitted there by this Code.
- C. Contract Purchaser Deemed Owner - A person or persons purchasing property under contract, for the purposes of this Code, shall be deemed the owner or owners of the property covered by the contract. The Planning Commission or City Council may require satisfactory evidence of such contract of purchase.
- D. Surveying - In order to avoid possible error of description, the Planning Commission may require a land survey as part of the application for zoning map change, variance, conditional use, temporary or other permit.

SECTION 4 - Fees - The City Council shall set fees as may be deemed necessary to properly act on land use applications covered by this Code.