

**TITLE 10
ZONING
CHAPTER 1
ZONING PURPOSE AND DEFINITIONS**

10-1-1: TITLE:

This title shall be known as the CITY OF UMATILLA ZONING ORDINANCE. (Ord. 688, 6-15-1999)

10-1-2: PURPOSE:

The purposes of this title are to promote public health, safety, convenience and general welfare and to carry out the comprehensive plan. (Ord. 688, 6-15-1999)

10-1-3: SCOPE OF REGULATIONS:

No structure or premises shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered contrary to the provisions of this title. (Ord. 688, 6-15-1999)

10-1-4: EXEMPTIONS:

Agriculture, grazing, horticulture and the growing of timber are not subject to the restrictions of this title. "Timber growing" is interpreted to be the growing of trees for commercial purpose. Tracts of land of less than five (5) acres shall be presumed to be nonagricultural, non-grazing, non-horticultural and not for the growing of timber unless proved to be otherwise. (Ord. 688, 6-15-1999)

10-1-5: STANDARDS:

The standards established by this title are determined to be minimum requirements in the interest of public health, safety and general welfare. (Ord. 688, 6-15-1999)

10-1-6: DEFINITIONS:

As used in this title, the masculine includes the feminine and neuter and the singular includes the plural; the word "occupied" includes designed or intended to be used; and the word "shall" is always mandatory and not merely directive. The following words and phrases, unless the context otherwise requires, shall mean:

ACCESS: The way or means by which pedestrians and vehicles enter and leave property.

ACCESSORY STRUCTURE OR USE: A structure or use incidental and subordinate to the primary use of the property and that is located on the same lot with the main use, e.g., a home occupation is an accessory use.

ACCESSWAY OR ACCESS CORRIDOR: A defined right of way or easement provided for pedestrians, vehicles, or both, for safe, usable and convenient access to or between properties or uses. "Access corridor" means a separate travel way for pedestrians and bicyclists to minimize travel distances within and between subdivisions, planned unit developments, residential areas

and commercial centers, major employment areas, transit stops, or within and between nearby neighborhood activity centers such as schools, parks and convenience shopping.

AGRICULTURE: The tilling of the soil and the raising of crops.

ALLEY: A narrow public street through a block primarily for service access to the rear or side of properties otherwise abutting on another street.

ALTERATION: Any manmade change to the use of a structure or the use of land.

ANTENNA: A system of electrical conductors for radiating or receiving radio waves, commonly consisting of a metal rod, wire panel or dish mounted on a supporting tower, pole, mast, or similar structure.

APARTMENT: A dwelling unit within a multi-family dwelling structure.

AUTOMOBILE: Any self-propelled vehicle (including motorcycles) capable of operating on any highway, street, road, alley or land.

AUTOMOBILE SERVICE STATION: A business that provides services for vehicles limited to the selling of petroleum products, tires, batteries and accessories, servicing of automobiles, including minor automotive repair, but excluding auto body and fender work, major engine repair or rebuilding, outside display of goods, except for petroleum products, and outside repairs of any kind.

BICYCLE: A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with every wheel more than fourteen inches (14") in diameter or two (2) tandem wheels either of which is more than fourteen inches (14") in diameter or having three (3) wheels in contact with the ground, any of which is more than fourteen inches (14") in diameter.

BICYCLE FACILITIES: A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities, all bikeways, and shared roadways not specifically designated for bicycle use.

BIKEWAY: Any road, path or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facility is designated for the exclusive use of bicycles or is shared with other transportation modes.

BOARDING, LODGING OR ROOMING HOUSE: A building where lodging with or without meals is provided for compensation for not less than five (5) and no more than ten (10) guests.

BOUNDARY LINE ADJUSTMENT: An adjustment of a property line by relocation of a common boundary where an additional unit of land is not created and where the existing land reduced in size by the adjustment complies with any applicable zoning ordinance.

BUILDING: A structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

BUILDING HEIGHT: The vertical distance measured from the grade to the highest point of the roof beams of flat roofs, to the deck line of mansard roofs, or to the center height between eaves and ridges for gable, hip or gambrel roofs.

BUILDING LINE: A line established by this title to govern the placement of a building with respect to the front lot line through the setback requirements of a minimum front yard. A building line is ordinarily parallel to the front lot line and at a distance in accordance with the setback requirements.

BUILDING SPECIFICATIONS: Requirements for minimum standards. (As established in the uniform building code.)

CITY: The city of Umatilla, Oregon.

COMMERCIAL USE: The activity of purchasing, selling or conducting other transactions involving the handling or disposition, other than included in the term light and heavy "industry" as defined in the appropriate section, of any article, substance or commodity for the livelihood or profit, including shops for the sale of personal services, professional services, and places where commodities, services or merchandise are sold or agreements are made to furnish them. Limited on site assembly of products offered for sale is permissible, as for a bakery or dressmaker.

COMMUNITY SERVICES USE: A use that may be appropriate or necessary in any district due to its public convenience, necessity, unusual character, technical need, or effect on the neighborhood. Such uses may include a public or private park, utility facility, building used for religious worship, as listed in chapter 6 of this title.

COMPREHENSIVE PLAN: The comprehensive plan for the city of Umatilla, comprising plans, maps, and reports, or any combination thereof, relating to the future economic and physical growth and development pattern or redevelopment of the city.

COUNCIL: The city council of the city of Umatilla, Oregon.

DEDICATION: The designation of land by its owner for any general or public use.

DENSITY, NET: The number of dwelling units per unit of land, expressed as the number of square feet of land per dwelling unit. The net density is computed by dividing the net square footage by the number of dwelling units. Net square footage is determined by subtracting any area of land dedicated for public purposes from the total site area.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, construction, installation or alteration of buildings or other structures; condominium conversion; land division; establishment or termination of a right of access;

storage on real property; tree cutting; clearing; mining, dredging, filling, grading, paving, excavation, or drilling operations.

DRIVE-THROUGH USE: A commercial use that involves provision of a product or service through a window or similar opening in a building, in a manner that does not require the customer to leave his/her automobile.

DWELLING, MULTI-FAMILY: A building containing three (3) or more dwelling units, each occupied by a family living independently of other families, and having separate housekeeping and cooking facilities for each family.

DWELLING, SINGLE-FAMILY: A detached or attached residential dwelling unit other than a mobile home, occupied by one family and located on its own lot.

DWELLING, TWO-FAMILY: A building containing two (2) dwelling units; also called a duplex.

DWELLING UNIT: One or more rooms designed for occupancy by one family and not having more than one cooking facility. For the purposes of this title, a travel trailer is not a dwelling unit.

EASEMENT: A grant of the right to use a specific portion of a property for specific purposes.

EFFICIENCY DWELLING UNIT: The unit shall have a living room not less than two hundred (200) square feet nor more than five hundred (500) square feet of floor area and shall be provided with a separate closet, kitchen sink, cooking appliance and refrigeration facilities each having clear working space of not less than thirty inches (30") in front. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

EMPLOYEE(S): All persons, including proprietors, who work on premises during the largest shift at peak season.

FAMILY: One or more persons related by blood, marriage, legal adoption or legal guardianship living together in a dwelling unit plus not more than four (4) additional persons; or an individual or a group of not more than five (5) persons unrelated by blood, marriage, adoption or legal guardianship living in a dwelling unit.

FAMILY DAYCARE PROVIDER: A daycare provider which accommodates fewer than thirteen (13) children in the provider's home; this is considered a residential use.

FENCE: An accessory structure designed and intended to serve as a barrier or as a means of enclosing a yard or other area, or other structure; or to serve as a boundary feature separating two (2) or more properties. A "sight obscuring fence" is a fence constructed of wood or masonry or similar solid material or a chain link fence with slats that is at least six feet (6') high and that completely obscures the view from one side of the fence to the other.

FLOODPLAIN: The floodplain of the Umatilla area is defined as those areas that would be inundated by the maximum flood that occurs once every one hundred (100) years as identified by the U.S. army corps of engineers or the federal emergency management agency.

FLOOR AREA: The area included in surrounding walls of a building or portion thereof, or the area contained under a roof for structures without walls.

FRONTAGE: The portion of a property which abuts a public street.

GARAGE, PRIVATE: An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building. A carport is considered a garage.

GARAGE, PUBLIC: A building, other than a private garage, used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

GRADE: A point of elevation of the finished surface of the ground, paving, or sidewalk within the area between a building and the property line, or, when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building. For determining building height, grade is measured at the lowest point of elevation. Also, the percent of elevation change of a street.

GRAZING: Grazing is the use of land for pasturing domestic, herbivorous animals such as horses, cattle, sheep and goats.

HEAVY INDUSTRY: The manufacturing, processing, compounding, packaging or assembling of products, the process of which requires or creates emissions or discharges other than normal sanitary sewage wastes or the storage of materials which require permits be issued by the Oregon state department of environmental quality.

HOME OCCUPATION: A lawful business activity commonly carried on within a dwelling by members of the family occupying the dwelling. A home occupation is an accessory use as defined herein and is subject to subsection 10-11-1A of this title.

HORTICULTURE: Horticulture is a form of agriculture.

HOSPITAL: An establishment that provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.

HOTEL: A building in which lodging is provided for guests for compensation and in which no provision is made for cooking in the room.

JUNKYARD: An area of more than two hundred (200) square feet not enclosed by a building and used for the dismantling, storage or handling in any manner of junked vehicles or other machinery or for the purpose of storage of dismantled material, junk and scrap, if such activity is not incidental to the primary use on the same lot.

KENNEL: Any premises or building in which four (4) or more dogs or cats at least four (4) months of age are kept for board, propagation or sale.

LANDSCAPING: Plant materials, including trees, shrubs, and ground cover. A landscaped area shall primarily be composed of plant materials, but may include a pedestrian walkway or patio or similar space if designed as an integral part of the landscaped area.

LIGHT INDUSTRY: The manufacturing, processing, compounding, packaging or assembling of products, the process of which does not require or create emissions or discharges other than normal sanitary sewage wastes or the storage of materials which require permits be issued by the Oregon state department of environmental quality.

LIVESTOCK: Domestic animals of types customarily raised or kept on farms for profit or other purposes.

LOT: A unit of land that is created by a subdivision or partition of land, which meets the minimum lot requirements as established by this title.

LOT AREA: The total horizontal area within lot lines of a lot.

LOT, CORNER: A lot abutting on two (2) intersecting streets other than an alley; provided, that the streets do not intersect at an angle greater than one hundred thirty five degrees (135°).

LOT, DEPTH: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

LOT, INTERIOR: A lot with frontage on only one street.

LOT LINE: The property line bounding a lot.

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

LOT LINE, REAR: A lot line which is opposite and most distant from the front lot line; in the case of an irregular, triangular, or nonrectangular lot, a line ten feet (10') in length within the lot parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE: Any lot line that is not a front or rear lot line, including a side abutting a street.

LOT OF RECORD: A legally created lot or parcel of land at the time of adoption of this title.

LOT WIDTH: The distance between the midpoints of the two (2) principal opposite side lot lines, measured at approximately a right angle to the lot depth and parallel to the front lot line.

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

MANUFACTURED HOME PARK: Any place where manufactured homes are located on the same lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid for the rental or use of facilities. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot.

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

MODULAR HOME: A sectional or factory built house built to meet the housing standards as set by the state of Oregon, designed to be affixed to real property on a permanent foundation.

MOTEL: An individual building or group of buildings attached or detached containing guestrooms together with conveniently located parking space on the same lot which is designed, used, or intended to be primarily used, for transient accommodations. The term includes auto courts, motor lodges, tourist courts and efficiency units.

NONCONFORMING STRUCTURE OR USE: A lawful existing structure or use at the time this title, or any amendment thereto, becomes effective which does not conform to the requirements of the district in which it is located.

NURSING HOME: A facility other than a residential dwelling unit which provides care and nurturing for the elderly.

OWNER: An owner of record of real property or the authorized registered agent of an owner, as shown in the records of the county assessor.

PARKING LOT: Four (4) or more parking spaces designed to serve a single building or use, or four (4) or more parking spaces required under chapter 9 of this zoning ordinance, together with associated maneuvering and access space.

PARKING SPACE: A rectangular space designed with sufficient area for the parking of a standard American automobile.

PARKING SPACES FOR HANDICAPPED: A rectangular space designed to comply with specifications of the Americans with disabilities act (ADA).

PEDESTRIAN: A person who is traveling without the use of a vehicle; i.e., walking or using a wheelchair.

PEDESTRIAN FACILITIES: Improvements which provide for pedestrian traffic including sidewalks, walkways, crosswalks and other improvements, such as lighting and benches which make it safe or convenient to walk.

PERSON: An individual, firm, partnership, association or social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group or combination acting as a unit.

PLANNING COMMISSION: The city of Umatilla planning commission.

PRIMARY USE: The primary use to which a premises is devoted and the primary purpose for which the premises exists.

RECREATION VEHICLE: A vacation trailer, travel trailer, or other vehicular or portable unit which is either self-propelled or towed or carried by a motor vehicle; which is intended for human occupancy; and is designed primarily for vacation or recreation purposes, or temporary residential use. A recreation vehicle is further defined as a mobile unit of forty five feet (45') in length or less and eight feet (8') in width when equipped for travel purposes.

RECREATION VEHICLE PARK: A lot that is operated on a fee or other basis as a place for the parking of occupied recreation vehicles. A recreation vehicle park may include a residential structure for a resident manager and/or caretaker.

RESIDENTIAL FACILITY:

- A. **Child Caring Facility:** A facility that provides for six (6) or more children (unmarried persons under 18 years of age), for day treatment for disturbed children; adoption placement services; residential care, including, but not limited to, foster care of residential treatment for children; or other similar services for children.
- B. **Residential Care Facility:** A facility that provides for six (6) or more physically disabled or socially dependent individuals, residential care in one or more buildings on contiguous properties as provided by Oregon Revised Statutes 443.400(5).
- C. **Residential Training Facility:** A facility that provides for six (6) or more mentally retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties as provided by Oregon Revised Statutes 443.400(7).
- D. **Residential Treatment Facility:** A facility that provides for six (6) or more mentally, emotionally, or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties as provided by Oregon Revised Statutes 443.400(9).

RESIDENTIAL HOME:

- A. Adult Foster Home: A family home or facility in which residential care is provided for five (5) or fewer adults who are not related to the provider by blood or marriage as provided by Oregon Revised Statutes 443.705(1).
- B. Registered Residential Facility: A facility that provides residential care for five (5) or fewer disabled (physical or mental impairment which for the individual constitutes or results in functional limitation to 1 or more life activities) or elderly (62 years of age or older) individuals as provided by Oregon Revised Statutes 443.480 to 443.500.
- C. Residential Training Home: A facility that provides, for five (5) or fewer mentally retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties, when so certified and funded by the mental health and development disability services division as provided by Oregon Revised Statutes 443.400(8).
- D. Residential Treatment Home: A facility that provides, for five (5) or fewer mentally, emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties as provided by Oregon Revised Statutes 443.400(10).

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

SCREENING: A sight obscuring fence or landscaping that consists of dense perennial evergreen planting with sufficient foliage to obscure vision and which will reach an average height of at least six feet (6') within thirty (30) months after planting.

SETBACK: The distance between the closest part of a structure or use and a property line.

SETBACKS FOR CORNER LOTS: For determining required yard setback purposes only, the narrowest street frontage will be considered to be the front. The lot line most nearly parallel to the front lot line will be considered the rear; the remaining lot lines will be considered side lot lines.

SIDEWALK: A pedestrian walkway, with or without a curb, constructed of a durable, hard surface, usually concrete.

SIGN: A presentation or representation, other than a house number, which by words, letters, figures, designs, pictures or colors publicly displayed gives notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation or a request for aid or other type of advertising. The term includes the surface upon which the presentation or representation is displayed. Each display surface of a sign shall be considered to be a sign.

SITE: An area of real property in common ownership, notwithstanding that a particular development permit application may be for development of a portion of the site only. Conveyance of less than fee title to different persons, such as by ground lease, shall not operate to prevent the requirement of site review for the entire site.

SITE REVIEW: The process of reviewing all community service developments, manufactured dwelling parks, attached dwelling structures (single-family and multi-family), commercial developments, and industrial developments for compliance with the standards and criteria of this code.

STREET: A public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

STRUCTURAL ALTERATION: A change to the supporting members of a structure including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders or the roof.

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

TRUCK STOP: Any business whose primary use is the servicing of trucks over one and one-half (1 1/2) ton capacity with petroleum products, repair and related services, including motel units, restaurant service, trucker accessories, batteries and tires.

UNIFORM BUILDING CODE (UBC): The current version of the state of Oregon specialty codes as adopted by the city of Umatilla.

USE: An activity or purpose for which land or a structure is designed, arranged or intended or for which it is occupied or maintained.

VEHICLE REPAIR: The general repair, alteration, rebuilding, maintenance, or reconditioning of vehicles, including motor, body, frame, upholstery, interior and/or paint work.

VISION CLEARANCE AREA: A triangular area on a lot at the intersection of two (2) streets or a street and railroad, two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. Plantings, walls, structures, or temporary or permanent obstructions exceeding three feet (3') in height measured from the grade of the street centerline are prohibited in this area.

WALKWAY: A facility provided specifically for the benefit and use of pedestrians.

YARD: An open space on a lot that is unobstructed from the ground upward except as otherwise provided in this title.

YARD, FRONT: A yard between side lot lines, measured horizontally at right angles to the front lot line, from the front lot line to the nearest point of the building.

YARD, REAR: A yard extending between side lot lines and measured horizontally and at right angles to the rear lot line from the rear lot line to the nearest point of the main building.

YARD, SIDE: A yard between the front and rear yards measured horizontally and at right angles to the side lot line from the side lot line to the nearest point of the building.

YARD, STREET SIDE: A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure. (Ord. 723, 6-17-2003)

CHAPTER 2 PLAN DESIGNATIONS AND MAP

10-2-1: COMPLIANCE REQUIRED:

A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied or used only as permitted by this Title. (Ord. 688, 6-15-1999)

10-2-2: LAND USE CLASSIFICATIONS:

For the purpose of this Title, the following districts are hereby established in the City. The terms "zone" and "zoning map" and "district" or "plan map designation" or "plan map" are used interchangeably.

PLAN DISTRICT DESIGNATIONS

(Within The City Limits)

Plan Designation	Abbreviation
Single-Family Residential	R-1
Medium Density Residential	R-2
Multi-Family Residential	R-3
Neighborhood Commercial	NC
General Commercial	GC
Downtown Commercial	DC
Light Industrial	M-1
Heavy Industrial	M-2
Community Services	CS
Flood Plain	FP

(Ord. 688, 6-15-1999)

10-2-3: OFFICIAL PLAN MAP:

- A. Location Of Districts: The boundaries for the districts listed in this Title are indicated on a map entitled "City of Umatilla Plan Map". The boundaries may be modified in accordance with the Zoning Map amendments that shall be adopted by reference.
- B. Plan Map: The Map or map amendment shall be dated with the effective date of the ordinance that adopts the Map or map amendment. A certified print of the adopted Map or map amendment shall be maintained without change in the office of the City Recorder as long as this Title remains in effect. (Ord. 688, 6-15-1999)

10-2-4: BOUNDARIES OF DISTRICTS:

If a district boundary as shown on the Map divides a lot between two (2) districts, the entire lot shall be deemed to be in the district in which the greater area of the lot lies; provided, that this adjustment involves a distance not to exceed twenty feet (20') from the mapped district boundary. (Ord. 688, 6-15-1999)

10-2-5: DESIGNATION OF ANNEXED AREAS:

An area annexed to the City shall be assigned a plan designation that most closely corresponds with its Comprehensive Plan designation unless an amendment is undertaken under the requirements of this Title.

TABLE 10-2-1

COMPREHENSIVE PLAN MAP AND CORRESPONDING
LAND USE DISTRICT DESIGNATION

<u>Comprehensive Plan Map Designation</u>	<u>Plan Map Designation</u>
Residential	Single-Family Residential (R-1), Medium Density Residential (R-2), Multi-Family Residential (R-3)
Commercial	Neighborhood Commercial (NC), Downtown Commercial (DC), General Commercial (GC)
Industrial (Ord. 688, 6-15-1999)	Light Industrial (M-1), Heavy Industrial (M-2)

**CHAPTER 3
RESIDENTIAL DISTRICTS
ARTICLE A. SINGLE-FAMILY RESIDENTIAL (R-1)**

10-3A-1: PURPOSE:

The R-1 District is intended for low density, urban single-family residential uses. The R-1 District corresponds to the R-1 designation of the Comprehensive Plan. (Ord. 688, 6-15-1999)

10-3A-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the R-1 District:
Accessory uses.

Family daycare providers and residential homes.
Home occupations subject to provisions of Section 10-11-1 of this Title.
One single-family detached dwelling structure or one manufactured home subject to provisions of Section 10-11-8 of this Title is permitted on each lot. (Ord. 688, 6-15-1999; amd. Ord. 692, 9-7-1999)

10-3A-3: CONDITIONAL USES PERMITTED:

The following primary uses and their accessory uses may be permitted when authorized in accordance with the requirements of Chapter 12 of this Title:
Community Services uses as provided by Chapter 6 of this Title. (Ord. 688, 6-15-1999)

10-3A-4: DEVELOPMENT STANDARDS:
DIMENSIONAL STANDARDS

Minimum lot area	8,000 square feet
Minimum lot width	50 feet
Minimum lot depth	90 feet
Minimum yard setbacks:	
Front and rear yard	25 feet total, with minimum yard, 10 feet
Side yard	5 feet
Side street yard	10 feet
Garage	18 feet from any street except an alley
Maximum building height	35 feet

(Ord. 688, 6-15-1999)

ARTICLE B. MEDIUM DENSITY RESIDENTIAL (R-2)

10-3B-1: PURPOSE:

The purpose of the R-2 District is to allow single-family detached and attached residences on smaller lots, two-family and multi-family housing at moderate density. Site review is required for most uses. The R-2 District corresponds to the R-2 designation of the Comprehensive Plan. (Ord. 688, 6-15-1999)

10-3B-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the R-2 District:
Accessory uses.
Family daycare providers, residential homes, and residential facilities.
Home occupations subject to provisions of Section 10-11-1 of this Title.
Single-family detached residences, including manufactured homes on individual lots subject to provisions of Section 10-11-8 of this Title.
Two-family and multi-family housing. (Ord. 688, 6-15-1999; amd. Ord. 692, 9-7-1999)

10-3B-3: CONDITIONAL USES PERMITTED:

The following uses and their accessory uses may be permitted subject to the provisions of Chapter 12 of this Title:
Boarding house.
Community Services uses as provided by Chapter 6 of this Title.

Manufactured home parks.

Office or clinic for a doctor, dentist or other practitioner of the healing arts, attorney, architect, engineer, surveyor or accountant. (Ord. 688, 6-15-1999)

10-3B-4: DEVELOPMENT STANDARDS:

- A. Density: One dwelling per three thousand five hundred (3,500) square feet.
- B. Landscaping: Except for lots intended for single-family detached dwellings, a minimum of fifteen percent (15%) of lot area shall be devoted to landscaping, exclusive of landscaping required for parking areas. The minimum dimension of any landscaped area shall be five feet (5').
- C. Open Space: At least two hundred (200) square feet of outdoor open area easily accessible from the interior of the dwelling shall be provided for each ground floor dwelling unit. Part of the required area may include a private screened patio.

DIMENSIONAL STANDARDS

Minimum lot area	5,000 square feet
Minimum lot width	50 feet
Minimum lot depth	90 feet
Minimum yard setbacks:	
Front and rear yard	10 feet
Side yard	5 feet
Side street yard	10 feet
Garage	18 feet from any street except an alley
Maximum building height	35 feet

(Ord. 688, 6-15-1999)

10-3B-5: LIMITATIONS ON USE:

Uses other than single-family detached residences, accessory uses to single-family detached residences, and home occupations are subject to site plan review. (Ord. 688, 6-15-1999)

ARTICLE C. MULTI-FAMILY RESIDENTIAL (R-3)

10-3C-1: PURPOSE:

The purpose of the R-3 District is to provide for multi-family dwellings. Typical housing types include apartments, townhouses, condominiums, and cluster developments. Site review is required for most uses. The R-3 District corresponds to the R-3 designation of the Comprehensive Plan. (Ord. 688, 6-15-1999)

10-3C-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the R-3 District:
Attached single-family residences.
Family daycare providers, residential homes and residential facilities.
Multi-family dwellings. (Ord. 688, 6-15-1999)

10-3C-3: CONDITIONAL USES PERMITTED:

The following uses and their accessory uses may be permitted subject to the provisions of Chapter 12 of this Title:

Boarding house.

Community Services uses as provided by Chapter 6 of this Title.

Office or clinic for a doctor, dentist or other practitioner of the healing arts, attorney, architect, engineer, surveyor or accountant. (Ord. 688, 6-15-1999)

10-3C-4: DEVELOPMENT STANDARDS:

- A. Density: One dwelling per two thousand (2,000) square feet.
- B. Landscaping: Except for lots intended for single-family dwellings, a minimum of fifteen percent (15%) of lot area shall be devoted to landscaping, exclusive of landscaping required for parking areas. The minimum dimension of any landscaped area shall be five feet (5').
- C. Open Space: At least two hundred (200) square feet of outdoor open area easily accessible from the interior of the dwelling shall be provided for each ground floor dwelling unit. Part of the required area may include a private screened patio.

DIMENSIONAL STANDARDS

Minimum lot area	5,000 square feet
Minimum lot width	50 feet
Minimum lot depth	90 feet
Minimum yard setbacks:	
Front and rear yard	12 feet
Side yard	8 feet
Side street yard	12 feet
Garage	18 feet from any street except an alley
Maximum building height	35 feet

(Ord. 688, 6-15-1999)

10-3C-5: LIMITATIONS ON USE:

All uses are subject to site review. (Ord. 688, 6-15-1999)

ARTICLE D. DOWNTOWN RESIDENTIAL (DR)

10-3D-1: PURPOSE:

The purpose of the downtown residential district is to accommodate higher density residential developments and office uses in the downtown area. Typical housing types include attached housing, apartments, townhouses, and condominiums. (Ord. 710, 5-7-2002)

10-3D-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the DR district:
Attached single-family dwellings or multi-family dwellings.

Expansion of existing commercial businesses with frontage along 6th Street shall be permitted within the DR district provided that the entire expansion site is located within a distance of two hundred feet (200') of the 6th Street curb. Such expansion includes parking and service areas that directly support such businesses.

Family daycare provider, residential homes and residential facilities.

Professional, financial, business, medical, dental and professional service offices are permitted only if the entire site is located within a distance of three hundred fifty feet (350') of the 6th Street curb.

Single-family dwellings existing at the time of the adoption of this article. The owner of an occupied single-family dwelling may upgrade that dwelling provided said dwelling is used for the same purpose. (Ord. 722, 6-3-2003)

10-3D-3: CONDITIONAL USES PERMITTED:

Community service uses. (See standards and limitations on community services uses of this title.) (Ord. 710, 5-7-2002)

10-3D-4: DEVELOPMENT STANDARDS:

- A. Density: For residential uses, the maximum allowable density shall be one dwelling unit per two thousand (2,000) square feet.
- B. Landscaping: A minimum of fifteen percent (15%) of lot area shall be devoted to landscaping, exclusive of landscaping required for parking areas. The minimum dimension of any landscaped area shall be five feet (5'). Landscaping shall be located between a structure and the fronting street, or as best provides a pleasant environment for pedestrians. Landscaping may include street furniture and pedestrian amenities, including public plazas and similar features.
- C. Open Space: At least two hundred (200) square feet of outdoor open area easily assessable from the interior of the dwelling shall be provided for each ground floor dwelling unit. Part of the required area may include a private screened patio.

DIMENSIONAL STANDARDS

	<u>Freestanding Dwellings or Structures</u>	Attached Dwellings or Structures
Minimum lot area	5,000 square feet	2,000 square feet
Minimum lot width	50 feet	20 feet
Minimum lot depth	90 feet	90 feet
Minimum yard setbacks:		
Front and rear yards	12 feet	12 feet

Side yard	8 feet	0 feet
Side street yard	12 feet	12 feet
Garage	18 feet from any street except an alley	18 feet from any street except an alley
Maximum building height	35 feet	35 feet

- D. Building Orientation: Buildings shall have their primary entrances oriented toward the street. On corner lots, building entrances shall face the primary street or may face the corner.
- E. Building Materials: No special standards for building materials apply.
- F. Parking: Parking is not allowed in the front yard setback or in a side yard setback closer to the street than the adjacent building facade. Parking shall not be located between the building and the public street.
- G. Garages And Carports: Garages and carports shall be located so that the garage door or carport opening is set back further from a street than the facade of the building. Garage doors shall be recessed a minimum of two feet (2') from the building facade for any garage that fronts on a public street other than an alley.
- H. Pedestrian Walkways: For all multi-family dwellings, including attached single-family dwellings, pedestrian walkways shall be provided between buildings and the public right of way. When not connected to a public sidewalk, walkways between adjacent buildings shall be provided. All pedestrian walkways shall not be less than five feet (5') in width and constructed of concrete or other material easily distinguishable from vehicular pavements. (Ord. 710, 5-7-2002)

10-3D-5: LIMITATIONS ON USE:

- A. All uses, including expansion or change of any existing use or structure except for modification of a single-family residence, are subject to site review.
- B. If office and residential uses occupy a single structure or parcel of land, the total minimum number of required off street parking spaces shall be either the required number of spaces for the office use or the required number of spaces for the residential use, whichever is greater. (Ord. 710, 5-7-2002)

**CHAPTER 4
COMMERCIAL DISTRICTS
ARTICLE A. NEIGHBORHOOD COMMERCIAL (NC)**

10-4A-1: PURPOSE:

The Neighborhood Commercial District is intended to provide convenient locations for small-scale commercial developments offering goods and services purchased frequently and which can be sustained on a limited trade area. Such uses include convenience markets, personal services,

repair shops, and similar businesses intended to serve an adjacent neighborhood. (Ord. 688, 6-15-1999)

10-4A-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the NC District. Site review is required:

Apartments on the second floor or above, provided the ground floor is occupied by a commercial use.

Commercial uses which are conducted wholly within an enclosed building. Temporary outside displays, furniture, and promotional activities directly related and subordinate to the primary business are permitted; such use of a sidewalk or public right of way shall be authorized by the City Administrator. (Ord. 688, 6-15-1999)

10-4A-3: CONDITIONAL USES PERMITTED:

Community Services uses as provided by Chapter 6 of this Title. (Ord. 688, 6-15-1999)

10-4A-4: DEVELOPMENT STANDARDS:

- A. At least ten percent (10%) of the site shall be landscaped.
- B. Pedestrian amenities, such as benches, plazas, fountains, and sculptures, may replace required landscaped area.

DIMENSIONAL STANDARDS

Minimum lot area	5,000 square feet
Minimum lot width	50 feet
Maximum front yard or side	10 feet
Street yard setback	
Minimum yard setbacks:	
Front and rear yards	0 feet or 10 feet if adjacent to a residential district
Side yard	0 feet or 10 feet if adjacent to a residential district
Side street yard	0 feet or 10 feet if adjacent to a residential district
Parking spaces or parking area	10 feet
Maximum building height	35 feet
Maximum site coverage (building and impervious surface)	80 percent

(Ord. 688, 6-15-1999)

10-4A-5: LIMITATIONS ON USE:

- A. All uses are subject to site review.
- B. No drive-through windows shall be permitted in this District for any use.
- C. No automobile service, repair, or refueling stations shall be permitted.

- D. No single use shall have a gross floor area greater than seven thousand five hundred (7,500) square feet, except for a grocery store, which may not exceed twenty thousand (20,000) square feet.
- E. The total gross floor area of any building containing several uses shall not exceed twenty thousand (20,000) square feet, unless one of the uses is a grocery store.
- F. Hours of operation for all commercial establishments shall be limited to five o'clock (5:00) A.M. to ten o'clock (10:00) P.M. (Ord. 688, 6-15-1999)

ARTICLE B. DOWNTOWN COMMERCIAL (DC)

10-4B-1: PURPOSE:

The downtown commercial district is intended to provide a concentrated central business district centered on 6th Street (State Highway 730). Uses include a mix of civic, retail, service, office and residential uses, designed to be pedestrian friendly and encouraged to be close to and oriented toward fronting streets and sidewalks. Parking may be provided on a district wide basis and may include public street parking, rather than having each individual building or use provide parking. (Ord. 723, 6-17-2003)

10-4B-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the DC district. Site review is required.

Commercial uses which are conducted wholly within an enclosed building. Outside displays, furniture, and promotional activities directly related and subordinate to the primary business such as sidewalk cafes and outdoor seating are permitted; however, use of a sidewalk or public right of way is subject to a permit issued by the city.

Residential uses provided the ground floor street frontage is occupied by commercial use. Temporary commercial uses including the sale of arts and crafts, produce, collectibles and other small retail sales may occur outside a wholly enclosed structure. This temporary use is intended to create a "farmers' market" atmosphere in the city on weekends. (Ord. 710, 5-7-2002)

10-4B-3: CONDITIONAL USES PERMITTED:

Community services uses. (See standards and limitations on community services uses of this title.)

Drive-through windows for any use. (Ord. 710, 5-7-2002)

10-4B-4: DEVELOPMENT STANDARDS:

A. Landscaping: Landscaping shall be provided as follows:

REQUIRED LANDSCAPING

<u>Site Size</u>	<u>Required Landscaped Area</u>
10,000 square feet or smaller	None

Greater than 10,000 square feet 5 percent of site area

- B. Pedestrian Amenities: Pedestrian amenities, such as benches, plazas, fountains, and sculptures, may replace required landscaped area.

DIMENSIONAL STANDARDS

Minimum lot area:

Commercial uses None

Residential uses None; density shall comply with R3 district requirements

Minimum lot width None

Maximum front or
side street yard setback 10 feet

Minimum yard setbacks:

Front and rear yards 0 feet or 10 feet if adjacent to a residential district

Side yard 0 feet or 10 feet if adjacent to a residential district

Side street yard 0 feet or 10 feet if adjacent to a residential district

Parking spaces or
parking area 10 feet

Maximum building height 35 feet

Maximum site coverage 100 percent
(building and impervious surface)

- C. Building Orientation: Buildings shall have their primary entrances oriented toward the street. On corner lots, building entrances shall face the primary fronting street or the corner. New buildings located on the corner of 6th and "I" Streets shall be designed with building fronts, which include display windows, facing both 6th Street and "I" Street.

- D. Building Materials: No special standards for building materials apply.

- E. Parking: No off street parking is required.

- F. Parking Or Loading Areas Which Abut A Residential Zone: Parking or loading areas which abut a residential zone along a rear or side property line shall be separated from the property line by a twenty foot (20') wide landscaped area. Alternatively, a ten foot (10') wide landscaped area and a fence or wall at least four feet (4') in height may be used to buffer the residential property.

- G. Design Features: Awnings are permitted on commercial buildings fronting on 6th or "I" Street. Awnings shall not bisect transom windows. (Ord. 710, 5-7-2002)

10-4B-5: LIMITATIONS ON USE:

- A. All uses are subject to site review.

- B. No single use shall have a gross floor area greater than twelve thousand (12,000) square feet, except for a grocery store.

- C. The maximum front yard setback may be increased by ten feet (10') if the setback is occupied by an outdoor feature relating to the business or public amenity such as seating or artwork.
- D. Parking is not allowed in the front yard setback or in a side yard setback closer to the street than the adjacent building facade or a minimum of ten feet (10'). Parking shall not be located between a building and the public street.
- E. Drive-through windows shall be allowed only if ingress and egress is not directly from 6th Street (Highway 730). (Ord. 723, 6-17-2003)

ARTICLE C. GENERAL COMMERCIAL (GC)

10-4C-1: PURPOSE:

The General Commercial District provides areas for a full range of commercial uses, and is especially intended to accommodate those uses which require large sites and high visibility. General Commercial areas should be located along major travel routes and at major intersections, but not in the downtown. (Ord. 688, 6-15-1999)

10-4C-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the GC District:

Apartments on the second floor or above, provided the ground floor is occupied by a commercial use.

Commercial uses that are not conducted wholly within an enclosed building, including uses that require outdoor storage or display of products such as lumberyards, motor vehicle sales lots, and plant nurseries.

Commercial uses which are conducted wholly within an enclosed building. Temporary outside displays and promotional activities directly related and subordinate to the primary business are acceptable. (Ord. 688, 6-15-1999)

10-4C-3: CONDITIONAL USES PERMITTED:

In a GC District, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 12 of this Title:

Automobile service station.

Community Services uses as provided by Chapter 6 of this Title.

Recreational vehicle park. (Ord. 688, 6-15-1999)

10-4C-4: DEVELOPMENT STANDARDS:

- A. At least ten percent (10%) of the site shall be landscaped. Landscaping shall be used to promote an attractive and inviting appearance.

- B. Storage areas shall be screened from view with a six foot (6') high sight-obscuring fence or similar barrier of vegetation, masonry, or a combination of fence, vegetation, and barrier.
- C. Yard setbacks adjacent to a residential district may be reduced to zero if screening elements are provided that create a buffer for noise, lights and glare, dust, odor, and similar effects.

DIMENSIONAL STANDARDS

Minimum lot area	5,000 square feet
Minimum lot width	50 feet
Minimum yard setbacks:	
Front yard	10 feet
Side yard	0 feet or 20 feet if adjacent to a residential district
Side street yard	10 feet
Rear yard	0 feet or 20 feet if adjacent to a residential district
Parking area	10 feet
Maximum building height	35 feet
Maximum site coverage (building and impervious surface)	90 percent

(Ord. 688, 6-15-1999)

10-4C-5: LIMITATIONS ON USE:

All uses are subject to site review, which shall determine the sufficiency of screening elements, landscaping location, and other design features. (Ord. 688, 6-15-1999)

ARTICLE D. DOWNTOWN TRANSITIONAL (DT)

10-4D-1: PURPOSE:

The purpose of the downtown transitional (DT) district is to provide a transition in uses between general commercial uses and downtown commercial uses. The district is primarily intended to accommodate downtown commercial uses, which are pedestrian friendly, oriented toward the fronting streets and sidewalks; however, the district is designed for greater flexibility by allowing certain general commercial activities as conditional uses. (Ord. 710, 5-7-2002)

10-4D-2: USES PERMITTED:

The following uses and their accessory uses are permitted in the DT district. Site review is required.

Downtown commercial uses, (subject to the standards and limitations on downtown commercial uses of this chapter).

Commercial uses which are conducted wholly within an enclosed building. Outside displays, furniture, and promotional activities directly related and subordinate to the primary business, such as sidewalk cafes and outdoor seating, are permitted; however, use of a sidewalk or public right of way is subject to a permit issued by the city. (Ord. 710, 5-7-2002)

10-4D-3: CONDITIONAL USES PERMITTED:

Community service uses. (See standards and limitations on community services uses of this title.)

General commercial uses (see subsection 10-12-2H of this title).

General commercial uses are permitted as conditional uses within the downtown transitional district provided that they comply with the standards and limitations for the downtown transitional district that are set forth in the following subsections. General commercial uses include:

- A. Commercial uses that are not conducted wholly within an enclosed building, including a use that requires outdoor storage or display of products, such as lumberyards, motor vehicle sales lots, and plant nurseries.
- B. Commercial uses that are conducted wholly within an enclosed building.
- C. Temporary outside displays and promotional activities directly related and subordinate to the primary business.
- D. Drive through windows for any use.

Residential uses, provided the ground floor street frontage is occupied by commercial use. Temporary commercial uses including the sale of arts and crafts, produce, collectibles and other small retail sales may occur outside a wholly enclosed structure. This temporary use is intended to create a "farmer's market" atmosphere in the city on weekends. (Ord. 710, 5-7-2002)

10-4D-4: DEVELOPMENT STANDARDS:

- A. Landscaping: Landscaping shall be provided as follows:

REQUIRED LANDSCAPING

<u>Site Size</u>	<u>Required Landscaped Area</u>
5,000 square feet or smaller	None
5,001 to 10,000 square feet	5 percent of site area
Greater than 10,000 square feet	10 percent of site area

- B. Pedestrian Amenities: Pedestrian amenities, such as benches, plazas, fountains, and sculptures, may replace required landscaped area.

DIMENSIONAL STANDARDS

Minimum lot area	None
Minimum lot width	None
Maximum front or side street yard setback	10 feet
Minimum yard setbacks:	
Front and rear yards	0 feet or 10 feet if adjacent to a residential district
Side yard	0 feet or 10 feet if adjacent to a residential district
Side street yard	0 feet or 10 feet if adjacent to a residential district
Parking spaces or parking area	10 feet
Maximum building height	35 feet
Maximum site coverage	100 percent

(building and impervious surface)

- C. Building Orientation: Buildings shall have their primary entrances oriented toward the street. On corner lots, building entrances shall face the primary fronting street or the corner.
- D. Building Materials: No special standards for building materials apply.
- E. Parking: Parking shall not be located in the front yard setback closer to the street than the adjacent building facade or a minimum of ten feet (10'). Parking shall not be located between a building and the public street.
- F. Minimum Parking Requirement: The minimum parking requirement shall be one-half (1/2) of the number of parking spaces specified for uses in chapter 9 of this title and parking spaces on the public street adjacent to a use may be counted to fulfill the parking requirement.
- G. Screening And Buffering: All outdoor storage areas or service areas, including recycling, garbage or waste disposal bins; and parking areas, but excluding areas used for outdoor sales, shall be screened to eliminate or reduce the visual impact of such areas from the public right of way. Screening and buffering must meet one of the following minimum standards:
 - 1. A staggered row of evergreen trees or shrubs that will grow to form a continuous visual buffer at least five feet (5') in height within one year of planting.
 - 2. A combination of berm, having a slope less than forty percent (40%), and evergreen planting designed together to form a continuous visual buffer of at least five feet (5') in height within one year from installation.
 - 3. A masonry wall or sight obscuring fence of not less than five feet (5') in height combined with a landscaped area not less than five feet (5') in width.
 - 4. Alternative methods of screening and buffering visual impacts considered appropriate for the nature of the impacts may be approved by the city. (Ord. 710, 5-7-2002)

10-4D-5: LIMITATIONS ON USE:

- A. All uses are subject to site review.
- B. No single use shall have a gross floor area greater than twelve thousand (12,000) square feet, except for a grocery store.
- C. The maximum front yard setback may be increased by ten feet (10') if the setback is occupied by an outdoor feature relating to the business or public amenity such as seating or artwork. (Ord. 710, 5-7-2002)

**CHAPTER 5
INDUSTRIAL DISTRICTS**

ARTICLE A. LIGHT INDUSTRIAL (M-1)

10-5A-1: PURPOSE:

The Light Industrial District provides for a wide variety of manufacturing uses, with limited outdoor storage and display areas. All uses are subject to site review. (Ord. 688, 6-15-1999)

10-5A-2: USES PERMITTED:

In an M-1 District, the following uses and their accessory uses are permitted:

Establishments engaged in manufacturing, processing, packing, assembly, distribution, repair, finishing or refinishing, testing, fabrication, research and development, warehousing, and servicing activities. Up to one hundred percent (100%) of the total floor area may consist of these manufacturing and distribution uses.

Executive and administrative offices relating to the industrial use.

Retail outlets for products manufactured on-site, such as bread and related goods from a bakery. (Ord. 688, 6-15-1999)

10-5A-3: CONDITIONAL USES PERMITTED:

In an M-1 District, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 12 of this Title:

Automobile service station - retail mini-market facility.

Community Services uses as provided by Chapter 6 of this Title.

Recreational vehicle park. (Ord. 688, 6-15-1999)

10-5A-4: DEVELOPMENT STANDARDS:

- A. Buffer Area: If a use in this District abuts or faces a residential district, a landscape area of twenty feet (20') along the entire frontage will be required on the side abutting or facing the adjacent district in order to provide a buffer area. Screening, landscaping or other conditions necessary to preserve the character of the adjacent district may be required to be established and maintained by the property owner. The setback may be reduced if appropriate and compensating screening measures are proposed and approved through site review.
- B. Storage: Materials shall be stored and grounds maintained in a manner that will not attract or aid the propagation of insects or rodents or otherwise create a health hazard. Outside storage in a required yard shall not exceed ten feet (10') in height. Storage area shall not exceed fifty percent (50%) of the site.
- C. Screening: Screening of storage or for other purposes shall consist of a sight-obscuring fence or landscaping, or other similar barrier. If screening is used to obstruct the view from adjacent residentially designated properties, the screening shall be of a material and design that is compatible with adjacent residences, shall be free of advertising, and shall be constructed according to plans submitted by the owner or his authorized agent and approved through site review.

DIMENSIONAL STANDARDS

Minimum lot area

5,000 square feet

Minimum lot width	50 feet
Minimum yard setbacks:	
Front yard	10 feet or 20 feet if adjacent to a residential district
Side yard	0 feet or 20 feet if adjacent to a residential district
Side street yard	10 feet or 20 feet if adjacent to a residential district
Rear yard	0 feet or 20 feet if adjacent to a residential district
Parking area	10 feet
Maximum building height	35 feet
Maximum site coverage (building and impervious surface) (Ord. 688, 6-15-1999)	60 percent

10-5A-5: LIMITATIONS ON USE:

- A. All uses are subject to site review.
- B. A chain link fence that is made in part with barbed wire may be permitted for the purpose of security when it is not along a sidewalk or public right of way.
- C. Any fence allowed or required in an M-1 District more than six feet (6') in height shall comply with setbacks for structures.
- D. Loading areas shall not be located within a required yard setback. (Ord. 688, 6-15-1999)

ARTICLE B. HEAVY INDUSTRIAL (M-2)

10-5B-1: PURPOSE:

The Heavy Industrial District provides areas for industrial uses which are generally not compatible with residential development because of their operational characteristics, which can include noise and air pollution. The Heavy Industrial District is also intended for uses that may require extensive outdoor storage areas to conduct business activities or for product storage or display. The Heavy Industrial District is appropriate for areas near major transportation facilities and not adjacent to residential districts. (Ord. 688, 6-15-1999)

10-5B-2: USES PERMITTED:

Any use permitted in the Light Industrial District.

Establishments engaged in manufacturing, processing, and storage, such as, but not limited to, business engaged in the manufacture of concrete, brick and clay products, crushing or processing of rock, manufacture of acid, fertilizer, gas, and paper products, breweries, and similar businesses.

Sand or gravel storage yard. (Ord. 688, 6-15-1999)

10-5B-3: CONDITIONAL USES PERMITTED:

Accessory dwelling (1 only) for the owner or operator of each existing permitted use.

Any use involving the handling or storage of hazardous chemicals or flammable liquids such as fireworks, blasting agents, explosives, corrosive liquids, flammable solids, high toxic materials, oxidizing materials, poisonous gases, radioactive materials, unstable chemicals, ammonium nitrate and liquefied petroleum gases.

Automobile service station - retail mini-market facility.

Automobile wrecking yard or junkyard, if located one thousand feet (1,000') or more from a residential district.

Commercial gravel pit, surface mining, rock crushing or asphalt plant.

Community Services uses as provided by Chapter 6 of this Title.

Recreational vehicle park. (Ord. 688, 6-15-1999)

10-5B-4: DEVELOPMENT STANDARDS:

- A. Buffer Area: If a use in this District abuts or faces a residential district, a landscape area of twenty feet (20') along the entire frontage will be required on the side abutting or facing the adjacent district in order to provide a buffer area. Screening, landscaping or other conditions necessary to preserve the character of the adjacent district may be required to be established and maintained by the property owner. The setback may be reduced if appropriate screening measures are proposed and approved through site review.
- B. Storage: Materials shall be stored and grounds maintained in a manner that will not attract or aid the propagation of insects or rodents or otherwise create a health hazard. Outside storage in a required yard shall not exceed ten feet (10') in height.
- C. Screening: Screening of storage or for other purposes shall consist of a sight-obscuring fence or landscaping, or other similar barrier. If screening is used to obstruct the view from adjacent residentially designated properties, the screening shall be of a material and design that is compatible with adjacent residences, shall be free of advertising, and shall be constructed according to plans submitted by the owner or his authorized agent and approved through site review.

DIMENSIONAL STANDARDS

Minimum lot width	80 feet
Minimum lot depth	100 feet
Minimum yard setbacks:	
Front yard	10 feet or 20 feet if adjacent to a residential district
Side yard	0 feet or 20 feet if adjacent to a residential district
Side street yard	10 feet or 20 feet if adjacent to a residential district
Rear yard	0 feet or 20 feet if adjacent to a residential district
Parking area	10 feet
Maximum building height	35 feet

Maximum site coverage 100 percent
(building, storage area, and impervious surface)
(Ord. 688, 6-15-1999)

10-5B-5: LIMITATIONS ON USE:

- A. Site Review: All uses are subject to site review.
- B. Fence Material: A chain link fence that is made in part with barbed wire may be permitted for the purpose of security when it is not along a sidewalk or public right of way.
- C. Fence Height: Any fence allowed or required in an M-2 District more than six feet (6') in height shall comply with setbacks for structures.
- D. Loading Areas: Loading areas shall not be located within a required yard setback.
- E. Nuisances: A use is prohibited which has been declared a nuisance by statute, by action of the City Council or by a court of competent jurisdiction.
- F. Health Hazards: Materials shall be stored and grounds shall be maintained in a manner that will not attract or aid the propagation of insects or rodents or otherwise create a health hazard. (Ord. 688, 6-15-1999)

**CHAPTER 6
COMMUNITY SERVICES (CS)**

10-6-1: COMMUNITY SERVICES USES:

The purpose of this Chapter is to provide a procedure and standards for the review of special uses which, by reason of their public convenience, necessity, unusual character, technical need or effect on the neighborhood, may be appropriate in any district but not suitable for listing within the other sections of this Title.

The following uses may be approved as Community Services uses:

- Adult or senior center.
- Boat moorage, marina, or houseboat moorage.
- Building used for religious worship.
- Cemetery, crematory, mausoleum, mortuary, or funeral home.
- Childcare facility for thirteen (13) or more children.
- Drug and alcohol treatment facility.
- Elderly housing.
- Helicopter landing facility.
- Hospital and medical offices developed in conjunction with a hospital facility.
- Public building or use, including, but not limited to, a City hall, post office, or library.
- Public or private park, including a golf course, trail system, or similar recreational facility.
- Public or private preschool or kindergarten, elementary school, middle school, high school, or college (schools that are customarily commercial rather than academic in nature such as

business, dance, karate, and other similar schools shall not be considered a Community Services use).

Sewerage or drainage way system structures.

Utility facility, including generating facilities, substations, telephone switching stations, and other facilities required for the transmission of power or communications.

Water system structures. (Ord. 688, 6-15-1999)

10-6-2: PROCEDURE:

Community Services uses shall be considered a Type III review process.

A. Application: All Community Services uses shall be reviewed as conditional uses according to the procedures and criteria of Chapters 12 and 14 of this Title. Plans shall be submitted for the site that identify the location of the use, building, parking area, landscaping, screening, and any other features on the site. The applicant shall submit a narrative that explains why the use is necessary for the community and why the particular site best serves the community. The narrative shall also consider impacts upon surrounding uses and possible mitigating measures, including, but not limited to, the location of parking, effects of off-site parking, traffic generation, street access points, buffering and screening, noise, illumination controls, structure height, hours of operation, crime prevention, design elements such as scale, structural design, form and materials, signage, and any other impacts unique to the specific use.

The approval of a Community Services use is for a specific use. Any change or expansion of an approved use shall be subject to the review procedures of this Chapter.

B. Zoning Map: A Community Services use approval shall not be construed as an amendment to the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification. (Ord. 688, 6-15-1999)

10-6-3: DEVELOPMENT STANDARDS:

Minimum yard setbacks:

A. Residential Districts: In any residential district, setbacks shall be as follows:

Front yard, 30 feet.

Side yard or side street yard, 20 feet for one story building; 25 feet for 2 or more stories.

Rear yard, 25 feet.

B. Other Districts: In any district other than a residential district, setbacks shall be as required in the district. A CS use adjacent to a residential district shall comply with setbacks in subsection A of this Section; a CS use adjacent to non-residentially designated land shall comply with setback requirements of the district.

C. Site Review: Site review is required for all Community Services uses. (Ord. 688, 6-15-1999)

CHAPTER 7

FLOOD PLAIN AND WETLAND AND RIPARIAN AREA PROTECTION REQUIREMENTS

10-7-1: FLOOD PLAIN (FP) DISTRICT:

The purpose of the Flood Plain District is to promote and protect the public health, safety, and general welfare, and to minimize flood losses by provisions designed to do the following:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood or which cause increased flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction.
- C. Protect individuals from buying lands that are unsuited for some purposes because of flood hazard.
- D. Protect existing wildlife habitat. (Ord. 688, 6-15-1999)

10-7-2: USES PERMITTED:

In a Flood Plain (FP) District, the following uses and their accessory uses are permitted:
Agriculture.

Boat landings and docks for pleasure, but not including incidental buildings.

Golf courses and driving ranges, but not including incidental buildings.

Parks, playgrounds and community centers, but not including incidental buildings. (Ord. 688, 6-15-1999)

10-7-3: RIPARIAN AREAS - DEFINITIONS AND INVENTORY:

A. Purpose: The purpose of this Section is to protect and restore water bodies and their associated riparian areas, thereby protecting and restoring the hydrologic, ecologic, and land conservation functions these areas provide. Specifically, this Chapter is intended to protect habitat for fish and other aquatic life, protect habitat for wildlife, protect water quality for human uses and for aquatic life, control erosion and limit sedimentation, and reduce the effects of flooding. This Chapter attempts to meet these goals by excluding structures from buffer areas around fish-bearing lakes, streams and associated wetlands, and by restricting vegetation removal or other alteration in those buffers. For cases of hardship, this Chapter provides a procedure to reduce the riparian buffer. Alteration of the riparian area in such cases shall be offset by appropriate restoration or mitigation, as stipulated in this Chapter.

B. Definitions:

BUILDING ENVELOPE: The land area, outside of all required setbacks, which is available for construction of a primary structure on a particular property.

FISH USE: Inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the Federal or State Endangered Species Acts. Fish use is determined from Oregon Department of Forestry Stream Classification maps.

IMPERVIOUS SURFACE: Any material which reduces and prevents absorption of storm water into previously undeveloped land.

LAWN: Grass or similar materials maintained as a ground cover of less than six inches (6") in height. For purposes of this Chapter, lawn is not considered native vegetation regardless of the species used.

MITIGATION: Taking one or more of the following actions listed in order of priority:

1. Avoiding the impact altogether by not taking a certain development action or parts of that action;
2. Minimizing impacts by limiting the degree or magnitude of the development action and its implementation;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action by monitoring and taking appropriate corrective measures;
5. Compensating for the impact by replacing or providing comparable substitute resources or environments.

NET LOSS: A permanent loss of habitat units or habitat value resulting from a development action despite mitigation measures having been taken.

NONCONFORMING: A structure or use that does not conform to the standards of this Title but has been in continuous existence from prior to the date of adoption hereof up to the present. Nonconforming uses are not considered violations and are generally allowed to continue, though expansion, reconstruction, or substantial improvement may be regulated.

OFF-SITE MITIGATION: Habitat mitigation measures undertaken in areas distant from a development action, and which are intended to benefit fish and wildlife populations other than those directly affected by that action.

ON-SITE MITIGATION: Habitat mitigation measures undertaken within or in proximity to areas affected by a development action, and which are intended to benefit fish and wildlife populations directly affected by that action.

RIPARIAN AREA: The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

STREAM: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding manmade irrigation and drainage channels.

STRUCTURE: A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:
 3. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 4. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TOP OF BANK: The stage or elevation at which water overflows the natural banks of streams or other waters of the State and begins to inundate upland areas. In the absence of physical evidence, the 2-year recurrence interval flood elevation may be used to approximate the bank full stage or delineate the top of bank.

C. Riparian Corridors: The inventory of riparian areas contained in the Comprehensive Plan specifies which streams and lakes are fish-bearing, and the stream-size category. Based on the classification contained in this inventory, the following riparian corridors shall be established:

1. Along all fish-bearing lakes, and fish-bearing streams with average annual stream flow less than one thousand cubic feet per second (1,000 cfs), the riparian corridor boundary shall be fifty feet (50') from the top of bank, except as identified below.
2. Along all streams with average annual stream flow greater than one thousand cubic feet per second (1,000 cfs), the riparian corridor boundary shall be seventy five feet (75') upland from the top of each bank.
3. Where the riparian corridor includes all or portions of a significant wetland as identified in the Goal 5 or Goal 17 elements of the Comprehensive Plan, the standard distance to

the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

4. Except as provided for in subsection C3 of this Section, the measurement of distance to the riparian corridor boundary shall be from the top of bank. The measurement shall be a slope distance. In areas where the top of each bank is not clearly defined, the riparian corridor boundary shall be measured from the ordinary high water level, or the line of non-aquatic vegetation, whichever is most landward. In areas where the predominant terrain consists of steep cliffs, the distance to the corridor boundary shall be measured as a horizontal distance until the top of the cliff is reached, and as a slope distance on from that point. (Ord. 688, 6-15-1999)

10-7-4: ACTIVITIES WITHIN THE RIPARIAN AREA:

- A. Permanent Alteration, Exceptions: The permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces is prohibited, except for the following uses, provided they are designed to minimize intrusion into the riparian area, and no other options or locations are feasible:
 1. Streets, roads, and paths;
 2. Drainage facilities, utilities, and irrigation pumps;
 3. Water-related and water-dependent uses;
 4. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area;
 5. Structures or other nonconforming alterations existing fully or partially within the riparian area may be expanded, provided the expansion does not occur within the riparian area. Substantial improvement of a nonconforming structure in the riparian area shall require compliance with the standards of this Chapter;
 6. Existing lawn within the riparian area may be maintained, but not expanded within the riparian area. Development activities on the property shall not justify replacement of riparian area with lawn;
 7. Existing shoreline stabilization and flood control structures may be maintained. Any expansion of existing structures or development of new structures shall be evaluated by the City Administrator and the appropriate natural resource agency staff. Such alteration of the riparian area shall be approved only if less invasive or nonstructural methods will not adequately meet the stabilization or flood control needs.
- B. Removal Of Vegetation: Removal of riparian vegetation is prohibited, except for:
 1. Removal of nonnative vegetation and replacement with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall maintain or exceed the density of the removed vegetation.

2. Removal of vegetation necessary for the development of approved water-related or water-dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent or water-related use.
 3. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the City Administrator. If no hazard will be created, the City Administrator may require these trees, once felled, to be left in place in the riparian area.
- C. Exceptions: The following activities are not required to meet the standards of this Section:
1. Commercial forest practices regulated by the Oregon Forest Practices Act.
 2. Normal and accepted farming practices other than buildings or structures, occurring on land designated for exclusive farm use and existing in the riparian area since prior to the date of adoption hereof. Ongoing agricultural practices existing in the riparian area since prior to the date of adoption hereof on land not designated for exclusive farm use are allowed in the riparian area subject to the definition and requirements of nonconforming uses. (Ord. 688, 6-15-1999)

10-7-5: ALTERATION REQUIRING MITIGATION:

- A. Allowable Alterations: Permanent alteration of the riparian area by placement of structures or impervious surfaces is allowable under the following procedures, subject to the mitigation requirements of subsection B of this Section:
1. A setback adjustment as allowed under subsection C of this Section.
 2. A variance to the riparian setback approved through the procedures of subsection D of this Section.
 3. On streams having average annual stream flow exceeding one thousand (1,000) cubic feet per second and having a seventy five foot (75') riparian buffer established under this Chapter, the riparian setback may be reduced as allowed under subsection E of this Section.
- B. Proposals: Proposals for development activities within the riparian area allowed in subsection A of this Section shall be reviewed by the Oregon Department of Fish and Wildlife (ODFW), as per Oregon Administrative Rules 635-415 Fish and Wildlife Habitat Mitigation Policy. A mitigation recommendation shall be obtained from ODFW. For purposes of implementing Goal 5, the goal is no net loss of protected resources; correspondingly, for purposes of designing appropriate mitigation, sites should be considered at least in "Habitat Category 2" (OAR 635-415-030), which strives for no net loss of habitat values.
- C. Setback Adjustment:
1. Qualifying Lots: Lots on which the riparian setback required by this Chapter exceeds any other setbacks in a particular yard, and which, when combined with other required yard

setbacks, results in a building area depth of twenty five feet (25') or less or a building envelope of eight hundred (800) square feet or less.

2. **Setback Reduction Procedure:** Setback reduction shall be the minimum necessary to create a building envelope twenty five feet (25') deep or a building envelope of eight hundred (800) square feet (whichever requires a lesser reduction of the setback). The yard setback opposite the riparian area may be reduced up to one-half (1/2) the standard setback. If this does not create a sufficient building envelope, the riparian setback may be reduced up to one-half (1/2) the required setback. Additional reductions of setbacks require a variance. Removal of vegetation within the original riparian setback shall be the minimum necessary to allow development of the use, and shall otherwise conform with the standards of subsection 10-7-4B of this Chapter.

D. **Variance:**

1. In cases where the provision for a setback adjustment under subsection C of this Section are not sufficient, a property owner may request a variance to the riparian setback.

Granting of a variance requires findings that:

- a. The proposed development requires deviation from the riparian standards; and
- b. Strict adherence to the riparian setback and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the district, and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity; and
- c. The provisions of subsection C of this Section are insufficient to remedy the hardship.

E. **Large Stream Riparian Reduction:** On streams having average annual stream flow exceeding one thousand (1,000) cubic feet per second and having a seventy five foot (75') riparian buffer established under this Chapter, structures and impervious surfaces may be placed within the riparian setback as follows:

1. The removal of vegetation shall be limited to the minimum amount necessary to accommodate the use. Any vegetation removed in excess of this standard shall be nonnative species, and the proposal shall specify replacement of that vegetation with native species.
2. The applicant shall provide sufficient information regarding the proposed development and potential impacts to riparian resources to allow the City Administrator, in consultation with the ODFW, to determine whether the proposal will provide equal or better protection of riparian resources. This information includes, but is not necessarily limited to: a plot plan showing the top of the stream or water body bank, the extent of development within the riparian setback, uses that will occur within the riparian setback and potential impacts (for example: chemical runoff, noise, etc.), the extent of vegetation removal proposed, characteristics of the existing vegetation (types, density), any proposed alterations of topography or drainage patterns, existing uses on the property and any potential impacts they could have on riparian resources.
3. In no case shall such alterations occupy more than fifty percent (50%) of the width of the riparian area measured from the upland edge of the corridor. (Ord. 688, 6-15-1999)

10-7-6: WETLAND NOTIFICATION PROCEDURES:

- A. Written notice shall be provided to the Oregon Division of State Lands of applications which involve lands which are wholly or partially within areas that are identified as wetlands on the State-wide Wetlands Inventory as follows:
1. Within five (5) working days of the acceptance of a complete application for the following:
 - a. Subdivisions.
 - b. Building permits for new structures.
 - c. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development permits in flood plains and floodways.
 - d. Conditional use permits and variances that involve physical alterations to the land or construction of new structures.
 - e. Planned unit development approvals.
 2. If, after acceptance of an application, the City receives information that there is a possible wetland on the subject property from a party responding to the public notice for any of the above, the City Administrator shall also provide written notice to the Oregon Division of State Lands.
 3. Notice is not required for any application listed in subsection A of this Section if a permit has been issued by the Division of State Lands for that activity.
 4. If the Division of State Lands fails to respond to the notice from the City within thirty (30) days of the postmark date of the notice, the City may issue an approval for the proposed activity with written notice to the applicant and owner of record that the proposed activity may require State or Federal permits.
 5. The City may issue an approval for a Comprehensive Plan Map or Zoning Map amendment for parcels identified as or including wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for State and Federal permits and providing the Division of State Lands with a copy of the notification of Comprehensive Plan Map or Zoning Map amendments for specific properties.
 6. The City may issue approval for any activity listed in subsection A of this Section providing that the approval includes one of the following statements:
 - a. Issuance of a permit under Oregon Revised Statutes 196.665 and 196.800 to 196.900 by the Division of State Lands is required for the proposed project before any physical alteration takes place within the wetlands;
 - b. Notice from the Division of State Lands that no permit is required; or
 - c. Notice from the Division of State Lands that no permit is required until specific proposals to remove, fill, or alter the wetlands are submitted to the Division.

7. Notice of activities authorized within an approved wetland conservation plan shall be provided to the Division of State Lands within five (5) days following approval by the City.
8. Failure of the City to provide notice to the Division of State Lands as required in this Section will not invalidate City approval of the proposed activity. (Ord. 688, 6-15-1999)

CHAPTER 8 PLANNED DEVELOPMENT (PD)

10-8-1: PLANNED DEVELOPMENT:

The purpose of planned development is intended to encourage the appropriate development of tracts of land that are sufficiently large to allow site planning, to encourage the most efficient use of the land through a higher density of residential development, to promote inclusion of open space within developments, and to provide flexibility in the application of zoning regulations to accommodate varying physical conditions on a site. The planned development should promote a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and create an attractive, healthful, efficient and stable environment for living, shopping, and working. (Ord. 688, 6-15-1999)

10-8-2: SITE DEVELOPMENT REQUIREMENTS:

- A. Primary Use: The primary use of land in a planned development shall reflect the type of use indicated on the Comprehensive Plan and Zoning Map for the area. For sites with more than one Comprehensive Plan and Zoning Map designation, uses may be mixed within the site without regard for the specific boundary locations as long as the balance of land allocation is generally maintained and the site design promotes the purposes of this Chapter. Housing types may be mixed within the development. In addition to uses specified within the zoning district, the following uses may be allowed within a planned development:
 1. Community buildings and recreation facilities serving the development.
 2. Recreational vehicle storage area.
 3. Single-family residences, two-family residences, attached housing, and multiple-family housing, except that in the R-1 District no more than four (4) dwellings may be attached in a single structure.
- B. Site Size: Planned development shall not be permitted on a parcel less than two and one-half (2 1/2) acres in area unless an applicant can show cause why a smaller site is suitable and satisfies the requirements of this Chapter.
- C. Ownership Required: The tract or tracts of land included in a proposed planned development must be in one ownership or control, or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase shall be deemed the owner of such land for the purposes of this Chapter.

D. Performance Bonds: Performance bonds for construction of any public facilities or utilities shall be provided as required in Title 11 of this Code.

E. Site Review: Site review is required for a planned development. (Ord. 688, 6-15-1999)

10-8-3: PROCEDURE:

A planned development involving a land division shall be submitted as part of an application for land division as provided in Title 11 of this Code and reviewed as a Type III procedure. A planned development that does not involve a land division shall be submitted as a conditional use permit, as provided in Chapter 12 of this Title and reviewed as a Type III procedure. In addition to any other submittal requirements for a subdivision or conditional use, the preliminary plat or site plan shall show proposed building locations, with setbacks and dimensions, and designate the type of building (e.g., single-family attached, two-family attached, recreational building). (Ord. 688, 6-15-1999)

10-8-4: DENSITY PROVISIONS:

In order to preserve the integrity of the Comprehensive Plan and relate it to the planned development, the number of dwelling units permitted shall be determined as follows:

- A. Residential density shall be calculated by dividing the gross site area by the minimum lot area allowed in the applicable zoning district. Where more than one zoning district affects a site, the residential density or intensity of commercial use shall be calculated for the site area designated, but the actual uses on the site within the planned development may be located without regard for zoning boundaries.
- B. The total number of dwelling units proposed for the entire planned development shall be no less than seventy five percent (75%) of the maximum allowed density. For purposes of this calculation, the gross area may be reduced by the area of land with slopes in excess of fifteen percent (15%) or affected by any other physical constraint, such as flood plain, wetland, or similar site constraint. However, the Planning Commission may reduce the required maximum density if it finds that there are physical constraints that limit the potential density and that the City's purposes listed in Section 10-8-1 of this Chapter are met.
- C. Allowable density may be modified to reflect the provision of open space. A development that provides open space in excess of the minimum requirement may be allowed to increase density by as much as twenty percent (20%), in a direct relationship with the amount of additional open space provided. (Ord. 688, 6-15-1999)

10-8-5: OPEN SPACE:

- A. A minimum of twenty percent (20%) of the gross land area of the site proposed for a planned development shall be allocated to open space. Open space will be maintained in public or private common ownership, with provisions for maintenance specified through the approval process, and shall be available for use for all residents or occupants of the planned development. Landscaping within open space areas shall be provided with automatic watering systems or a letter from a certified landscape architect shall attest that landscaping

will be likely to survive without a watering system. Open space shall not include public rights of way or private spaces within lots.

- B. Proposed open space areas shall be located to maximize the conservation of natural features, the protection of steep slopes, water resources, historically or culturally significant sites, and ecologically or scientifically significant areas, where these features are present on a site. Open space in this category need not be improved except to mitigate damage or improve the natural features.
- C. Proposed open space areas that do not include the features identified in subsection B of this Section may be approved if either of the following conditions can be demonstrated:
 - 1. Open space is improved with active recreation uses, including swimming pools; tennis, basketball, volleyball, and/or badminton courts; children's play areas; picnic and barbecue facilities; community gardens; or other similar facilities, and appropriate landscaping with automatic sprinkling systems (unless an exception is authorized).
 - 2. Open space is improved for passive recreation uses, including pedestrian pathways not associated with streets that provide convenient connections through the development; landscaping with automatic sprinkling systems (unless an exception is authorized); view corridors; benches and seats; and similar improvements.
- D. Maintenance of landscaping and other improvements within the designated open space area shall be included in the guarantee for completion and maintenance of public facilities as required for a subdivision or shall be guaranteed by a bond or other form of surety acceptable to the City through a condition of approval for any conditional use permit. (Ord. 688, 6-15-1999)

10-8-6: MODIFICATIONS TO SITE DEVELOPMENT STANDARDS:

Dimensional requirements of the underlying district or districts may be adjusted to better achieve the purposes of the planned development, including lot dimensions, minimum lot area, and so on. However, setbacks around the perimeter of the development shall conform to the requirements of the underlying district. Street right-of-way and pavement widths may be reduced to the minimum necessary to ensure adequate service levels and public safety, but in no case shall a right of way be less than twenty five feet (25') with a pavement width of twenty feet (20'). A sidewalk shall be provided within the right of way along at least one side of all streets within a planned development. Modifications shall be considered within the context of the planned development and need not be considered as variances. (Ord. 688, 6-15-1999)

10-8-7: BUILDING PERMITS WITHIN AN APPROVED PLANNED DEVELOPMENT:

Building permits shall be issued within an approved and platted planned development only on the basis of the approved final plat and after acceptance by the City of any required public improvements. (Ord. 688, 6-15-1999)

10-8-8: MODIFICATIONS OF AN APPROVED PLANNED DEVELOPMENT:

Modifications of an approved preliminary plat of a planned development and subdivision shall only be made as provided in Title 11 of this Code. (Ord. 688, 6-15-1999)

10-8-9: APPROVAL CRITERIA:

The Planning Commission shall approve, approve with conditions, or deny the application based upon its findings. The Planning Commission shall find that the following criteria have been met, in addition to criteria and standards of Chapter 12 of this Title or Title 11 of this Code, as applicable. Any conditions shall be directly related to an identified deficiency in the proposed plan.

- A. There are special physical conditions of the site or objectives of the development that justify the modification of standards and densities allowed by a planned development. The physical conditions or objectives shall be identified and related to the purposes of the planned development.
- B. The site design provides for open spaces through efficient design and layout of the development. The open space is designed to preserve natural features on the site or function as passive or recreational area within the development.
- C. Proposed streets, sidewalks, and pathways in the development are adequate for the anticipated traffic and for emergency services vehicles.
- D. The site design provides for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land.
- E. Any modifications to site development standards or public works standards support the objectives of this Chapter and other provisions of this Code; are justified by conditions of the site or objectives of the proposal; and satisfy emergency access requirements. (Ord. 688, 6-15-1999)

CHAPTER 9 OFF STREET PARKING AND LOADING

10-9-1: OFF STREET PARKING AND LOADING:

- A. Scope: At the time a structure is erected or floor area is enlarged by ten percent (10%), or the use of a structure or parcel of land is changed within any district, off street parking spaces for motor vehicles and bicycles shall be provided in accordance with the requirements of this chapter unless greater requirements are otherwise established.
- B. Compliance: Occupancy of a building or use will not be permitted without complying with this chapter. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this chapter. A permit for the use of property is contingent upon the unqualified continuance and availability of the amount of parking space required by this title. Reduction of the amount of required off street parking shall be considered a violation of this title. (Ord. 688, 6-15-1999)
- C. General Requirements:

1. Gross Floor Area: Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of property.
 2. Number Of Employee Parking Spaces: Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season.
 3. Vehicle Parking; Loading Spaces: Required vehicle parking shall be available for the parking of operable automobiles and bicycles of residents, customers and employees and shall not be used for the storage of vehicles, materials or for the parking of trucks used in conducting business or use. A required loading space shall not be used for any other purpose than the immediate loading or unloading of goods.
 4. Calculating Number Of Parking Spaces: For purposes of calculating the required number of vehicle or bicycle parking spaces, a fractional space shall be counted as a whole space.
 5. Joint Use Of Facilities: The off street requirements of two (2) or more uses, structures, or parcels of land may be satisfied by the same parking or loading spaces used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriately written documents to establish the joint use.
 6. Commercial Development Parking Spaces: The maximum number of parking spaces for a commercial development shall not exceed one hundred fifty percent (150%) of the required parking. (Ord. 723, 6-17-2003)
- D. Accessible Parking Spaces: Accessible parking spaces shall be provided as required under state and/or federal laws, and shall be clearly marked in a manner to be approved by the building official. Accessible spaces shall be located on the shortest practical accessible route to an accessible building entry. Whenever practical, the accessible route shall not cross lanes of vehicular traffic. Accessible parking spaces shall be a minimum of nine feet (9') wide with a six foot (6') wide access aisle between each two (2) spaces. Accessible parking shall be provided according to the following requirements:

Minimum Required Number Of Total Parking Spaces			Accessible Spaces
1	-	25	1
26	-	50	2
51	-	75	3
76	-	100	4
101	-	150	5
151	-	200	6
Over 200			7 plus 1 per 100 or fraction thereof

One in eight (8) accessible parking spaces, but no less than one space, shall be a van accessible parking space. A van accessible parking space shall be nine feet (9') wide with an eight foot (8') wide aisle that can be shared between another nine foot (9') accessible space. An appropriate sign designating the space as "van accessible" shall be provided.

- E. Joint Use: Owners of two (2) or more uses, structures or parcels of land, may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap; provided, that satisfactory legal evidence is presented to the City Administrator in the form of deeds, leases or contracts to establish joint ownership. (Ord. 688, 6-15-1999)

10-9-2: DESIGN STANDARDS FOR OFF-STREET PARKING FACILITIES:

- A. Surfacing: All off-street parking spaces and driveways shall be hard surfaced with concrete, asphaltic cement, or similar surface that is resistant to dust and mud. Type and thickness of this hard surface shall be approved by the City Administrator.
- B. Bumper Rails: All required off-street parking spaces, except those for single-family residences, must be equipped with bumper rails located in such a manner as to prevent vehicles from striking landscaping, fences, buildings, or walls or from overhanging their spaces in a manner which might obstruct aisles, walks, streets, or other spaces or property.
- C. Access:
 - 1. Groups of more than four (4) off-street parking spaces shall be served by a driveway or aisle so that no backing movements or other maneuvering within a street other than an alley will be required.
 - 2. Service drives or aisles to off-street parking areas shall be designed and constructed to facilitate the flow of traffic and to provide maximum safety to pedestrians and vehicular traffic on the site.
 - 3. Service drives or aisles shall be clearly and permanently marked and defined through the use of bumper rails, fences, buildings, walls, painting or other appropriate markers and shall not be considered as parking spaces.
- D. Landscaping:
 - 1. All parking lots shall be developed with at least ten percent (10%) of any uncovered parking area in plantings or other landscaping as approved by the decision maker. Single-family detached and attached residences and two-family residences are exempt from this requirement. Parking areas for three (3) to five (5) dwelling structures may be exempt from this requirement if landscaping is provided around the perimeter of the parking area.
 - 2. Landscaping shall be located in planter areas that separate parking spaces into groups of ten (10) or less spaces. Each planter area shall include at least one tree with a caliper of 2.0 inches at time of planting and ground cover.

3. Required planting areas shall have a minimum dimension of not less than five feet (5').
 4. Required landscaping shall be continuously maintained and shall be provided with an automatic underground sprinkler system or a certification from a landscape architect that plant materials can survive without an automatic sprinkling system.
- E. Space Size: Each off-street parking space shall have a net area of not less than one hundred eighty (180) square feet, exclusive of access drives or aisles, and shall be designed to the dimensional requirements of Figure 1, Section 10-9-6 of this Chapter. If determined on a gross area basis, two hundred eighty (280) square feet shall be allowed per vehicle. Parking spaces shall be identified with painted stripes or other permanent markings.
- F. Parking Area Plans: No building permit shall be issued until plans are presented that show property that is and will remain available exclusively for off-street parking. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this Title. Reduction of the amount of required off-street parking shall be considered a violation of this Title. Parking area plans shall be drawn to scale and shall delineate parking spaces, aisle and maneuvering areas, and landscaped areas.
- G. Space Location: Off-street parking facilities shall be located as herein specified. Where a distance is specified, such distance shall be the distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve.
1. For All Dwelling Structures And Motels: On the same lot with the building they are to serve.
 2. For Rooming Houses And Apartment Houses: Within one hundred feet (100') of the building they are required to serve, including recreational vehicle storage as may be required.
 3. For Uses Other Than Specified Above: Within two hundred feet (200') of the building they are required to serve. (Ord. 688, 6-15-1999)

10-9-3: REQUIRED NUMBER OF VEHICLE AND BICYCLE PARKING SPACES:

Required off-street parking spaces are as listed in the following table. Where alternative standards prevail, the greater applies in conflicting computations. For uses not listed, the required vehicle and bicycle parking shall be the same as for the most similar use, as determined by the City Administrator.

Use	Vehicle Parking Spaces	Bicycle Parking Spaces
Auto court, motel, hotel, tourist home	1 space for each sleeping unit, guest room or suite plus 1 space for the manager	1 space per 10 guests rooms

Automobile service station	3 spaces plus 2 spaces per service bay, if any	2 spaces or 0.2 per 1,000 square feet of gross floor area, whichever is greater
Automobile service station with convenience market	1 space per 400 square feet of gross floor area	2 spaces or 0.2 per 1,000 square feet of gross floor area, whichever is greater
Bank, business or professional office with on-site customer service	1 space for each 400 square feet of gross floor area	
Beauty/barbershops	1 space for each chair and 1 space for each 2 employees	
Bowling alley	3 spaces for each lane or alley	
Dance hall, skating rink	1 space for each 50 square feet of dance floor or skating area	
Food and beverage place (with drive-through)	1 space for each 200 square feet of gross floor area floor area	1 space per 1,000 square feet of gross
Food and beverage place with sale and consumption on the premises (no drive-through)	1 space for each 150 square feet of gross floor area floor area	1 space per 1,000 square feet of gross
Hospital, nursing home or or institution	1 space for each 2 beds	
Library	1 space for each 300 square feet of gross floor area	1.5 spaces per 1,000 square feet of gross floor area
Manufacturing uses, testing research, processing or assembly uses	1.5 spaces per 1,000 square feet of gross floor area	
Medical or dental clinic	1 space for each 300 square feet of gross floor area	
Mortuary chapel	1 space for each 4 seats in the	

Multiplex and apartment structures	2 spaces for each dwelling unit for the first 4 units; 1.5 spaces for each additional dwelling in the same structure	1 space per dwelling unit
Office not providing customer services on-premises	1 space for each 600 square feet of gross floor area	
Preschool, childcare facility or kindergarten	1 space per 300 square feet of gross floor area, plus 1 space for each bus kept on the premises	1 space per classroom
Retail store, supermarket, department store and personal service shop	1 space for each 400 square feet of gross floor area	
Roadside stands	Minimum of 4 spaces	
Schools, commercial	1 space per 300 square feet of gross floor area	
Schools, middle or high school	1 space per employee, plus 1 space for each 6 students	3 spaces per classroom
Schools, primary and elementary	1 space per employee	3 spaces per classroom
Service and repair shop and retail store handling bulky merchandise such as automobiles and furniture	1 space for each 1,000 square feet of gross floor area	
Single-family attached residential structures	1 space for each dwelling unit	1 space (may be located within a garage)
Single-family detached residential structures including manufactured homes on lots or in parks	2 spaces, 1 of which may be in a driveway	None required
Stadium, sports area, or similar enclosed place of assembly	1 space for each 4 seats	

Theater, auditorium, church, or similar enclosed place of assembly	1 space for each 4 seats or 1 for each 72 square feet of floor or assembly area not containing fixed seating	1 space per 60 lineal feet of bench seating or equivalent
Warehouse, storage and wholesale business (Ord. 688, 6-15-1999)	1 space for each 2,000 square feet of gross floor area	

10-9-4: OFF-STREET LOADING, PASSENGERS:

Schools having a capacity greater than twenty five (25) students shall provide a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children. The driveway shall be located outside of a normal travel lane. (Ord. 688, 6-15-1999)

10-9-5: OFF-STREET LOADING, MERCHANDISE:

Any use which requires supply or delivery of goods or merchandise shall provide off-street loading area which shall not interfere with traffic or block any street, alley or required parking spaces. (Ord. 688, 6-15-1999)

10-9-6: OFF-STREET SURFACE PARKING MATRIX:

(Ord. 688, 6-15-1999)

**CHAPTER 10
NONCONFORMING USES**

10-10-1: CONTINUATION OF NONCONFORMING USE OR STRUCTURE:

Subject to the provisions of this chapter, a nonconforming structure or use may be continued and maintained in reasonable repair, but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure that was arranged or designed for the nonconforming use at the time of passage of this title is permitted. (Ord. 688, 6-15-1999)

10-10-2: NONCONFORMING STRUCTURE:

Except for signs or billboards, a structure conforming as to use, but nonconforming as to height, setback, or coverage may be altered or extended; providing the alteration or extension does not exceed the height, setback, or coverage requirements of this title. A nonconforming sign or billboard shall not be altered or extended except to make it comply with the requirements of this title. (Ord. 688, 6-15-1999)

10-10-3: DISCONTINUANCE OF A NONCONFORMING USE:

If a nonconforming use is discontinued from active use for a period of one year, further use of the property shall be for a conforming use. (Ord. 688, 6-15-1999)

10-10-4: CHANGE OF A NONCONFORMING USE:

If a nonconforming use is changed, it shall be changed to a use conforming to the zoning regulations and after change, it shall not be changed back again to the original nonconforming use. (Ord. 688, 6-15-1999)

10-10-5: DESTRUCTION OF A NONCONFORMING USE:

If a nonconforming use is destroyed by any cause to an extent exceeding eighty percent (80%) of its fair market value as indicated by the records of the county assessor, a future structure or use on the site shall conform to this title unless replaced within one year of destruction. (Ord. 722, 6-3-2003)

10-10-6: COMPLETION OF BUILDING:

Nothing contained in this title shall require any change in the plans, construction, alteration, or designed use of a structure for which a permit has been issued by the city and construction has commenced prior to the adoption of this title; provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two (2) years from the time the permit is issued. (Ord. 688, 6-15-1999)

10-10-7: VERIFICATION OF A NONCONFORMING STATUS:

An owner or operator of an alleged nonconforming use or structure may apply for a "verification of nonconforming status" through a type II procedure. The city administrator shall review information provided by the applicant and any pertinent records. The city administrator shall issue a decision that makes findings that describe the circumstances and situation relating to the use or structure. The decision shall establish the approximate date or length of time the use or structure has been in existence and the date when a change in this code made the use or structure nonconforming. (Ord. 688, 6-15-1999)

10-10-8: GENERAL EXCEPTIONS:

A. Lot Size Requirements: If a property ownership, consisting of the entire contiguous landholdings held in a single ownership at the time of passage of this title, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the holdings may be occupied by a use permitted in the district subject to the other requirements of the district; provided that if there is an area of deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirement of the district. The record of ownership as recorded in the office of the County Clerk at the time of passage of this Title shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provisions of this Title became applicable to the land concerned.

B. Yard Requirements: The following exceptions to yard requirements are authorized for a lot in any district:

1. If there are buildings on both abutting lots which are within one hundred feet (100') of the intervening lot, and the buildings have front yards of less than the required depth for the district, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

2. If there is a building on one abutting lot which is within one hundred feet (100') of the lot, and this building has a front yard of less than the required depth for the district, the front yard for the lot need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard depth. (Ord. 688, 6-15-1999)

CHAPTER 11 SUPPLEMENTARY PROVISIONS

10-11-1: GENERAL ACCESSORY USE PROVISIONS:

Accessory uses shall comply with all requirements for the primary use except where specifically modified by this title and shall comply with the following limitations:

- A. Home Occupation: A home occupation shall be conducted completely within a residence by the occupant of the residence. No more than one nonresident employee shall engage in the business. The residential character of the building shall be maintained with no exterior changes to the appearance or structure of the property and no signs shall be visible from the public street. A home occupation shall occupy less than one-quarter (1/4) of the ground floor areas of the main building. Home occupations shall not include repair of vehicles.
- B. Fences, Walls, And Similar Barriers:
 1. Fences within the vision clearance area described in section 10-11-4 of this chapter, shall not exceed three feet (3') in height and shall not create an obstruction to the vision of drivers.
 2. Outside of the vision clearance area, fences are limited to a maximum of six feet (6') in height, except that fences and walls, railings or mature hedges shall not exceed four feet (4') in height within the required front yard or side yard along a flanking street.
 3. A fence inspection permit from the city is required for all fences. The amount of the fee shall be set by resolution.
- C. Greenhouse: A greenhouse or hothouse may be maintained as an accessory use to a residence only if there are no sales.
- D. Guesthouse: A guesthouse may be maintained as an accessory use to a dwelling provided that there are no cooking facilities in the guesthouse. (Ord. 688, 6-15-1999)

10-11-2: PROJECTIONS INTO REQUIRED YARDS, SETBACK AND HEIGHT EXCEPTIONS:

- A. Limit: Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two feet (2') into a required yard or required open space.
- B. Setbacks: Regardless of the side yard requirements of the district, a side or rear yard may be reduced to three feet (3') for an accessory structure erected more than sixty five feet (65')

from a street other than an alley and provided that the structure is detached from other buildings by six feet (6') or more and does not exceed a height of one story nor an area of more than five hundred (500) square feet.

- C. Building Height Limitations: The following types of structures or structural parts may exceed the building height limitations of this title:
- Antennas for radio communications.
 - Belfries.
 - Chimneys.
 - Church spires.
 - Flagpoles. (Ord. 688, 6-15-1999)

10-11-3: MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS:

No lot area, yard, or other open space, or required off street parking or loading area existing on or after the effective date of this title, shall be reduced in area, dimensions, or size below the minimum required by this title, nor shall any lot area, yard, or other open space or off street parking or loading area which is required by this title for one use be used as the lot area, yard, or other open space or off street parking or loading area requirement for any other use, except as provided in chapter 9 of this title. (Ord. 688, 6-15-1999)

10-11-4: VISION CLEARANCE:

A vision clearance area shall be an area that is roughly triangular in shape that is established at the intersection of a street, alley, or driveway. It is measured along right of way or property lines, according to the following requirements:

- A. Residential Districts: In a residential district, the minimum distance shall be thirty feet (30'), or at intersections including an alley or driveway, ten feet (10'), measured from the point of intersection.
- B. Other Districts: In commercial and industrial districts, the minimum distance shall be fifteen feet (15'), or ten feet (10') if the intersection includes an alley or driveway. (Ord. 688, 6-15-1999)
- C. Access To Public Right Of Way: Access to the public right of way (public or private driveway) shall not be located within the vision clearance area of an intersection, unless there is no other alternative for access to a site. (Ord. 710, 5-7-2002)

10-11-5: SWIMMING POOLS, FISH PONDS, OR OTHER DECORATIVE POOLS:

- A. Fence Required: Every manmade body of water with a depth of more than eighteen inches (18") at any point shall be completely surrounded by a six foot (6') high fence or comparable enclosure. The fence shall have a self-closing, self-latching gate, with the latch mechanism located at least four feet (4') above grade. The fence shall be designed to discourage children from climbing and have no openings, holes or gaps larger than four inches (4") in any dimension.

- B. Building Permit Required: A building permit is required for a swimming pool. Plans shall be filed with the city and meet the requirements of this chapter and the uniform building code. No pool shall be used until a final inspection is made by the city after its construction is completed.
- C. Setbacks: A swimming pool shall be set back from any interior side or rear property line by a minimum of five feet (5'). Any associated structures shall comply with setbacks for a building or accessory structure for the district in which it is located.
- D. Exceptions: This chapter shall not apply to public swimming pools or wading pools maintained and operated by any public entity. (Ord. 688, 6-15-1999)

10-11-6: UTILITIES:

In all industrial, commercial, and residential districts, all electrical, telephone, and cable television utility service installations or connections made as part of new construction of a building or structure, shall be placed underground in accordance with city standards. McNary Industrial Park is exempt from this requirement. (Ord. 688, 6-15-1999)

10-11-7: EASEMENTS:

When an easement is required, the following standards shall apply:

- A. Pedestrian Easements: In order to facilitate pedestrian access from streets, lots, or developments, to schools, parks, nearby streets, or other developments, an easement no less than ten feet (10') wide with a paved pathway no less than six feet (6') shall be required. Any sight obscuring barrier such as a fence or planting at the edge of the easement shall not exceed three feet (3') in height in order to maintain visibility of the walkway from adjacent properties.
- B. Open Space Easements: An open space easement may be required over areas in private ownership of the floodplain or areas with unique natural condition. Such easement shall preclude development of the area when limiting the use of a property is determined to be in the public interest.
- C. General Public Easements: When topography or other conditions make impractical the location of drainage facilities, sanitary sewer or water lines within the public street right of way, an unobstructed easement shall be provided across a property. Easements shall be of sufficient width to safely excavate buried facilities, but generally shall be no less than fifteen feet (15') in width. (Ord. 688, 6-15-1999)

10-11-8: MANUFACTURED HOME SITE STANDARDS:

Manufactured homes used as permanent residences and meeting the following standards are allowed outside of manufactured home parks on individual lots in any district where single-family residences are allowed:

- A. The manufactured home shall be multi-sectional and enclose a space of not less than one thousand (1,000) square feet.

- B. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than twelve inches (12") above grade.
- C. The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet (3') in height for each twelve feet (12') in width.
- D. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the dominant materials used on surrounding dwellings as determined by the city administrator.
- E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in Oregon Revised Statutes 455.010.
- F. The manufactured home shall have a garage or carport constructed of like materials.
- G. The manufactured home is subject to any development standard, architectural requirement, and minimum size requirement to which a conventional single-family residential dwelling on the same lot would be subject.
- H. Each manufactured home shall be provided with a paved driveway no less than ten feet (10') wide for a single vehicle garage or carport or eighteen feet (18') for a two (2) vehicle garage or carport. (Ord. 692, 9-7-1999)

10-11-9: SINGLE-FAMILY DWELLING SITE STANDARDS:

- A. The single-family dwelling shall enclose a space of not less than one thousand (1,000) square feet.
- B. Each single-family dwelling shall have a garage or carport constructed of like materials and colors.
- C. Each single-family dwelling shall be provided with a paved driveway not less than ten feet (10') wide for a single vehicle garage or carport or eighteen feet (18') for a two (2) vehicle garage or carport. (Ord. 721, 6-3-2003)

**CHAPTER 12
CONDITIONAL USES**

10-12-1: AUTHORIZATION TO GRANT OR DENY:

A conditional use listed in this Title, may be permitted, denied, enlarged or altered upon authorization of the Planning Commission in accordance with the criteria and standards of this

Chapter and Type III procedures in Chapter 14 of this Title. Site review is required for conditional uses.

- A. Approval Criteria: The applicant shall carry the burden of proof in demonstrating that the following review criteria are satisfied, in addition to any specific criteria and standards in this Chapter, other applicable chapters of this Title, and this Code. If any of the following criteria and other applicable standards cannot be satisfied by requiring conditions with the approval, the use shall be denied:
1. Applicable Plans: The conditional use application complies with applicable policies of the Umatilla City Comprehensive Plan.
 2. Code Provisions: The proposal complies with all applicable provisions of this Code, including, but not limited to, provisions of this Chapter, the base district, and site review, as well as any other applicable provisions of this Code.
 3. Use Characteristics: If the proposed use is a community service, application shall include evidence to demonstrate that the proposed use is needed within the community to provide a social or technical benefit.
 4. Site Characteristics: The site is appropriate for the proposed use, considering, but not limited to, the following factors: neighboring land use, adequacy of transportation facilities and access, site size and configuration, adequacy of public facilities.
 5. Impacts On The Neighborhood: Potential impacts on neighboring properties shall be identified. Mitigating measures shall be identified for unavoidable adverse impacts.
 6. Impacts On The Community: Potential impacts on the community shall be identified, including, but not limited to, public facilities, land supply within the particular zoning district, impact on housing, etc. Potential benefits of a proposed use may outweigh potential impacts, but such benefits and impacts should be identified. Unavoidable adverse impacts should be mitigated to the extent possible.
- B. Conditions Of Approval: Conditions of approval for mitigating measures shall be clearly related to the identified impact or impacts. If complex conditions of approval are considered necessary, this is an indication that the proposed use may not be appropriate for the proposed site. Conditions of approval may include, but are not limited to, the following:
1. Increasing the required lot size or yard dimension.
 2. Limiting the height, size, or location of the building or use.
 3. Controlling the location and number of vehicle access points.
 4. Increasing the street width and requiring street improvements.
 5. Increasing or decreasing the number of required off-street parking spaces.

6. Limiting the number, size, location, and lighting of signs.
7. Requiring diking, fencing, screening, landscaping, or other facilities designed to protect adjacent or nearby properties.
8. Designating sites for open space.

C. Existing Conditional Use: Any conditional use existing prior to the effective date of this Title, and classified in this Title as a conditional use, shall not be changed with respect to the use, site, or structure, unless the change conforms with the current requirements for conditional use. (Ord. 688, 6-15-1999)

10-12-2: STANDARDS GOVERNING CONDITIONAL USES:

In addition to the standards of the district in which the conditional use is located and the other standards of this Title, the following criteria and standards shall apply to the specifically identified conditional use:

- A. Natural Resources: The use of premises in any district for the excavation, mining extraction, or removal of stone, sand, gravel, clay, or other natural deposits may only be authorized by the Planning Commission in accordance with this Title and subject to the following additional requirements:
1. The applicant shall submit a site plan and vicinity map showing uses within one thousand feet (1,000') of the site, and a topographic map(s) that shows a cross section of the site as it currently exists and after the proposed aggregate mining, in addition to any other submittal requirements of this Chapter.
 2. Required setbacks for any mining operation shall be no less than one hundred feet (100') from any public right of way and no less than five hundred feet (500') from any residence.
 3. Screening consisting of vegetation, berming, or other measures shall provide a visual screen along an abutting public right of way. Screening shall also be provided around the site except when adjacent properties are designated M-2.
 4. The City shall review the proposed use for impacts on streets and other existing or contemplated public improvements, upon all properties within one thousand five hundred feet (1,500') of such excavations, and on the proposed use of the site following completion of mining and reclamation. Identified impacts may be mitigated through clear and objective conditions of approval.
 5. The City may require that the applicant enter into an agreement with the City for reclamation of such areas to suitable use after completion of excavations, and that an adequate performance guarantee be furnished covering the cost of restoration or other work.

6. The City shall coordinate its review with the State Department of Geology and Mineral Industries (DOGAMI).
- B. Schools: In considering a conditional use application for a public or private school facility, the Planning Commission shall make findings that the site location best serves the intended area, access to the site is adequate, and impacts on surrounding properties and appropriate mitigating measures are identified.
1. Day nurseries and kindergartens shall provide and maintain at least one hundred (100) square feet of outdoor play area per child. A sight-obscuring fence at least four feet (4') high, but not more than six feet (6') high, shall separate the play area from abutting properties. The outdoor play area shall not be located in front of the building.
 2. Primary schools shall provide one acre of site area for each ninety (90) pupils or one acre for every three (3) classrooms, whichever is greater.
 3. Elementary schools shall provide one acre of site area for each seventy five (75) pupils or one acre for every two and one-half (2 1/2) classrooms, whichever is greater.
- C. Buildings Intended For Religious Worship: The Planning Commission may authorize a building for use for religious worship if the size of the site is adequate for the intended use, but not less than fifteen thousand (15,000) square feet in area, access to the site is adequate, and impacts on surrounding property and appropriate mitigating measures are identified.
- D. Utilities, Storage Tanks, And Towers For Transmission Of Radio Waves For Cellular Communications And Similar Facilities: The Planning Commission shall determine that the proposed site is located to best serve the intended area and that impacts on surrounding properties and appropriate mitigating measures are identified. Such facilities shall be located, designed, and installed with regard for aesthetic values.
- E. Automobile Service Stations: The following development standards and requirements apply to new automobile service stations:
1. The minimum area for a service station site shall be fifteen thousand (15,000) square feet; the maximum area shall be thirty thousand (30,000) square feet.
 2. The maximum street frontage for a service station site on a corner lot shall be one hundred twenty feet (120').
 3. A service station shall not be constructed within six hundred forty (640) lineal feet of any part of a building housing another service station.
 4. Landscaping shall be installed and maintained on ten percent (10%) of a service station site. Landscaping shall be located along the street frontage and adjacent to the primary entrance for persons along the front of any building.
- F. Recreational Vehicle Parks: Recreational vehicle parks shall conform to the following standards and requirements:

1. There shall be no long-term residential occupancy of a recreational vehicle park space. The maximum time any individual or vehicle is permitted is ninety (90) days within any one hundred eighty (180) day period. The applicant or subsequent park operator shall make his occupancy records available to the City to assure that this condition is met. Violation of the ninety (90) day occupancy limitation shall be grounds for immediate revocation of a conditional use permit.
2. The minimum area for a recreational vehicle park shall be three (3) acres.
3. A site plan shall be submitted for the recreational vehicle park, showing space locations, buildings and purpose of buildings, open space and recreational facilities if any, street layout, and landscaping, as well as locations for public water supply, sewage disposal, fire hydrants, and sanitary facilities conforming to requirements of the State Health Division, the Oregon Department of Environmental Quality, and the Uniform Building Codes Agency.
4. Domestic water and wastewater collection facilities shall be approved by the appropriate State agency. Connections to the City system shall be approved by the City Administrator.
5. A recreational vehicle space shall have an area of not less than seven hundred (700) square feet, exclusive of driveways and common areas.
6. Park roadways shall have a minimum width of thirty feet (30') when on-street parking is proposed and twenty four feet (24') where no on-street parking is permitted. Roadways shall be designed and improved to City standards for paving, curbs, and sidewalks, unless the applicant demonstrates that an alternative construction standard and street design is more appropriate for the site.
7. Each recreational vehicle space shall have at least one ten foot by twenty foot (10' x 20') parking space off-street exclusive of the recreational vehicle itself. Parking and driveway areas shall be paved.
8. Outdoor lighting shall be provided that is oriented to prevent direct illumination onto adjacent or abutting properties.
9. The recreational vehicle park shall be screened on all sides by a sight-obscuring planting, screening fence, or combination thereof that is at least six feet (6') in height. The recreational vehicle park owner or operator shall be responsible for the maintenance of such screening.
10. The park shall provide piped potable water to accommodate not less than seventy five percent (75%) of the spaces available. One waste disposal dump station for RVs shall be provided with each one hundred (100) sites or fraction thereof. All water, sewer, and storm drain facilities both on-site and off-site shall be approved by the City Administrator.

11. Sanitary facilities shall be provided in accordance with State standards. Sanitary sewer shall be provided to not less than seventy five percent (75%) of the spaces.
12. Trash receptacles shall be provided at the rate of thirty (30) gallons of refuse capacity for each two (2) recreational vehicle spaces or equivalent.
13. Each recreational vehicle space shall be provided with electrical service.
14. All plumbing facilities shall be inspected and approved by the City Administrator.

G. Manufactured Home Parks:

1. General Requirements:
 - a. State Requirements: All improvements included in the Oregon Revised Statutes 446 and 814.28 shall be complied with by any person owning or operating a manufactured home park and by any person placing a manufactured home in a park.
 - b. Character Of The Land: Land which is subject to flooding, poor drainage, steep slopes, rock formations, adverse earth formations, or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the future inhabitants of the manufactured home park shall not be developed. Existing features that would add value to the development or to the City as a whole, such as trees, watercourses, historical and archaeological sites, and similar irreplaceable assets, shall be preserved in the design.
 - c. Phasing: If the manufactured home park is to be built in phases, each phase shall be built in accordance with these regulations and the improvements required as each phase is constructed shall be determined based upon the total number of manufactured home spaces which will exist after completion of all phases.
2. Required Improvements: The following improvements shall be required in manufactured home parks:
 - a. Driveways: No dwelling space shall have access to a public street but shall be provided with a paved driveway with a minimum width of ten feet (10') to an interior street.
 - b. Interior Streets: Minimum width of twenty feet (20'), paved with a City standard or rolled curbs on both sides of interior streets and a sidewalk at least four feet (4') wide, or as necessary to comply with ADA requirements, on both sides of an interior street.
 - c. Street Signs: Appropriate street signs on interior streets and at the intersection of interior streets with public streets.
 - d. Parking:
 - 1) Two (2) parking spaces shall be provided for each manufactured home space.
 - 2) Parking spaces shall be provided on a hard surfaced area at least ten feet by forty feet (10' x 40') or twenty feet by twenty feet (20' x 20').
 - 3) A carport or garage shall be provided for each manufactured home space for at least one required parking space. The covered parking space may be provided along a space boundary, so that one structure is located to provide covered parking for two (2) adjacent spaces.

- 4) Guest parking shall be provided at a rate of one per three (3) dwellings in a parking lot or on the interior street if the street is at least thirty feet (30') in width and the parking would not interfere with the minimum twenty foot (20') access to all lots.
 - e. Water, Sewer Lines: Water lines and sewer lines with connections for each space and fire hydrants.
 - f. Utilities: Underground utilities.
 - g. Drainage: Provisions for adequate drainage.
 - h. Perimeter Setback, Landscaping: A manufactured home park shall have a perimeter setback of fifteen feet (15') in width from all property lines, with a six foot (6') high sight-obscuring perimeter fence and perimeter landscaping at least fifteen feet (15') in width, to include shade trees at one per twenty (20) lineal feet and ground cover such as grass. The perimeter landscaping shall be located between the street right of way and the fence for the property line abutting a public street. A landscaping plan shall be approved by the Planning Commission. The Planning Commission may modify the width of the perimeter setback or fence height if it finds that unusual circumstances justify the modification while maintaining a desired degree of buffering for residents within, as well as adjacent to, the manufactured home park.
 - i. Recreational Facilities: At least two hundred fifty (250) square feet per unit shall be provided in a usable form and size, with a minimum of two thousand five hundred (2,500) square feet and a minimum dimension of thirty feet (30'). The recreational space shall be landscaped and provided with improvements such as benches, tables, playground equipment, or similar features. The Planning Commission shall approve a plan for development of the recreational space.
 - j. Patios, Storage Buildings: Each dwelling space shall have a patio of at least one hundred twenty (120) square feet in area, with a minimum dimension of eight feet (8') and an enclosed, secure storage building at least one hundred twenty (120) square feet in area. All storage buildings within the park shall be constructed of uniform materials and standard design.
3. Optional Improvements: The planning commission may require other improvements, such as additional setbacks, pedestrian pathways, landscaping, laundry, or other features, if it determines that such facilities or features are necessary to mitigate impacts to or from adjacent properties or to provide greater livability within the manufactured home park.
4. Deferral Or Waiver Of Required Improvements: The planning commission may defer or waive the provision of one or more improvements listed in subsection G2 of this section if, in its judgment, said improvements are not required in the interests of the public health, safety and general welfare or which are inappropriate. This section is not intended to substitute for the variance process, but recognizes that unusual circumstances relating to a site may justify a modification of requirements in the context of a specific development.
5. Connection With Public Water And Sewage Systems: Manufactured home park water and sewer lines shall be connected to city water and sewer lines. The developer is required to pay for or perform the work or both to extend or increase the capacity of city

water or sewer lines or both to the site, should this be required to provide services. If determined to be necessary by the city administrator, the developer shall provide, as part of the application, an analysis of public street, sewer, and water systems prepared by a licensed engineer to include a determination of expected capacity needed by the manufactured home park and system improvements, including off site improvements, necessary to provide needed capacity for the proposed development.

6. **Manufactured Home Spaces:** Each space for a manufactured home shall contain not less than four thousand five hundred (4,500) square feet exclusive of space provided for the common use of tenants, such as roadways, general use structures, guest parking, walkways and areas for recreation and landscaping purposes.
7. **Setback Requirements For Manufactured Homes Within Manufactured Home Parks:** No manufactured home in the park shall be located closer than fifteen feet (15') from another manufactured home or from a general use building in the park. The minimum side and rear yards shall be five feet (5'). The minimum front yard and the minimum yard along any street shall be fifteen feet (15'). A carport or garage serving adjacent spaces may occupy the required side setback.
8. **Occupancy:** No manufactured home park shall be occupied until all conditions of approval, including any off site improvements required, have been completed. The planning commission may specify that a financial guarantee may be provided by the developer in lieu of completing required off site improvements prior to receiving approval for occupancy. If approved in phases, each phase with associated on and off site improvements shall be completed before occupancy of the phase of the manufactured home park is approved. (Ord. 688, 6-15-1999)

H. **General Commercial Uses In Downtown Transition District:** General commercial uses in the downtown transition district shall comply with the following standards:

1. The proposal shall be consistent with the purpose of the downtown transitional district.
2. The proposal must ensure a high quality pedestrian oriented environment. A "high quality pedestrian oriented environment" is one that includes features, such as:
 - a. Plazas or outdoor gathering areas;
 - b. Wide sidewalks;
 - c. Unusual or ornamental pavement materials or patterns;
 - d. Benches, street lighting, trash receptacles, bicycle racks, drinking fountains, and other outdoor furnishings;
 - e. Street trees or building awnings that provide shelter from the rain;
 - f. Fountains, ornamental pools, or ponds; and
 - g. Public art or interpretive exhibits.
3. Building entrances shall be oriented to the public street by fronting directly on the public sidewalk or directly connected to the public sidewalk by a concrete walkway. First floor building facades that front on public streets and include more than fifty percent (50%) of the wall area as windows.

4. Uses that occupy existing buildings may be exempted from compliance with the standards of this subsection H through the site review process, when compliance is not feasible due to the nature of the proposed use or the nature of the existing building or site, or both. (Ord. 710, 5-7-2002)

10-12-3: APPLICATION REQUIREMENTS:

A conditional use permit is a type III procedure. An application shall be submitted with maps and narrative as specified in chapter 14 of this title. (Ord. 688, 6-15-1999)

10-12-4: CONDITIONAL USES NOT COVERED:

Conditional use applications for which standards are not herein explicitly shown shall be reviewed for acceptance or denial subject to the standards of the zoning district in which the proposed use will be located and the approval criteria set forth in section 10-12-1 of this chapter. (Ord. 688, 6-15-1999)

**CHAPTER 13
OTHER PERMITS AND ACTIONS**

10-13-1: VARIANCE AND ADJUSTMENT:

Variance and adjustment procedures are intended to allow modifications of specific standards when the approval authority finds that approval criteria are satisfied. A variance or adjustment shall not be granted if the effect is to vary the uses permitted in the zoning district, definitions, or the residential density.

- A. Adjustment: An adjustment is a request for a ten percent (10%) increase or decrease in a quantitative provision of this Title. The City Administrator may grant an adjustment through a Type II procedure if all of the following criteria are satisfied:
 1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified.
 2. If in a residential district, the proposal will not significantly detract from the livability or appearance of the residential area. If in a commercial or industrial district, the proposal will be consistent with the desired character of the area.
 3. If more than one adjustment is requested, the cumulative effect of the adjustments will result in a project that is still consistent with the overall purpose of the district.
 4. Any impacts resulting from the adjustment are mitigated to the extent practical.
 5. Granting the adjustment is the minimum necessary to allow the use of the site.
- B. Variance: A variance is a request for more than a ten percent (10%) modification of a quantitative standard or qualitative criteria in this Title. The Planning Commission may grant an adjustment through a Type III procedure if all the following criteria are satisfied:
 1. The need for the adjustment is beyond the applicant's control.

2. To meet the need, the request is the minimum necessary variation from the requirement.
3. There are development constraints associated with the property or the present use or permitted use of the property which make development of a permitted use impractical, or the variance is needed to allow the applicant to enjoy a substantial property right possessed by a majority of property owners in the same vicinity.
4. Either the circumstances that apply to the site or the present or a permitted use of the site do not typically apply to other properties in the same vicinity or district, and are unique or unusual; or it would be more detrimental to the public safety or more injurious to the public welfare to apply the requirement than to grant the proposed variance.
5. If more than one variance is requested, or a variance and adjustment, the cumulative effect of the requests will result in a project that is still consistent with the overall purpose of the district.
6. The variance does not circumvent the purpose of the requirement or any provision of the Comprehensive Plan. (Ord. 688, 6-15-1999)

10-13-2: SITE REVIEW:

The purpose of site review is to provide a process to review proposals to verify compliance with requirements of this Title, including requirements of this Section, and any other applicable provisions of this Code.

A. General Provisions:

1. **Applicability:** Site review is required for multi-family residential, commercial, and industrial developments as specified in each zoning district.
2. **Procedure:** Site review is a Type II permit, unless incorporated into a Type III review such as a Community Services or conditional use permit.
3. **Exemptions:** The following developments are exempt from site review:
 - a. Single-family residences, manufactured homes on individual lots, and two-family attached residences.
 - b. A development that adds less than twenty five percent (25%) to existing floor area or outdoor use area when the primary use on the site remains unchanged and required parking does not increase.
 - c. An addition to an existing development when the primary use on the site remains unchanged.

B. Application:

1. **Submission:** The applicant shall submit at least six (6) copies of a narrative, plans, and drawings that describe the proposed development. Information specified by Chapter 14 of this Title and this Section may be combined and provided in narrative form or on plans

and maps so long as required information is clear and understandable. Additional copies of documents and plans will be required for a Type III review.

2. Site Design Criteria And Standards For Residential Developments: The following requirements are in addition to any requirements specified in the applicable zoning district:
 - a. Landscaping shall be provided as specified in the zoning district. Landscaped areas shall be provided with automatic irrigation unless a qualified landscape professional certifies that plants will survive without irrigation.
 - b. Front facades and points of entry shall generally be oriented to the fronting street, not to a parking lot.
 - c. Front facades facing the street shall contain windows for primary living areas.
 - d. Front facades of structures shall include horizontal offsets or design features, such as porches, gables, columns, and similar architectural features, at intervals of no less than one hundred feet (100') to visually enhance long walls.
 - e. On-site parking shall not be located between street frontage dwellings and an abutting right of way. Required parking shall be located beside or behind dwelling structures.
 - f. Attached garages shall be located at least four feet (4') behind the front facade and at least eighteen feet (18') from a public right of way.
 - g. Private outdoor space shall be provided for all dwellings as either a deck, porch, patio or similar space, at least eighty (80) square feet in area and enclosed, screened, or otherwise designed to provide privacy. Second floor residential uses in the Downtown Commercial District are exempt from this requirement.
 - h. Exterior garbage collection areas shall be screened with a six foot (6') high sight-obscuring fence or wall or comparable vegetation.
 - i. Based on anticipated vehicle and pedestrian traffic and the condition of adjacent streets and rights of way, the City may require right-of-way improvements including, but not limited to, paving, curbs, sidewalks, bikeways, lighting, turn lanes, and other facilities needed because of anticipated vehicle and pedestrian traffic generation.
 - j. Outdoor storage facilities with an area of at least twenty four (24) square feet, at least six feet (6') high, fully enclosed, and capable of being locked, shall be provided for each dwelling unit. Residential uses in the Downtown Commercial District are exempt from this requirement.
 - k. Private on-site driveways shall be constructed with sufficient width and suitable paving to support anticipated traffic volume and loads.
 - l. A continuous, on-site pedestrian system shall be provided that links the front doors of all dwellings with the abutting street, the parking area, and any on-site features such as a swimming pool, laundry, on-site open space, etc. Walkways shall maintain a clear width of at least five feet (5') and shall be separated from vehicles by curbs, planter strips, or similar barriers. Walkways through parking areas or crossing driveways shall be clearly identified by a different material or pavement markings or both. Walkways shall also provide direct and convenient connections to schools, parks, shopping areas, or other destinations within the vicinity as possible. Walkways shall be in clearly visible locations to promote safety. Walkways shall be hard surfaced.

3. Site Design Criteria And Standards For Nonresidential Developments: The following requirements are in addition to any requirements specified in the applicable zoning district:
 - a. Landscaped areas shall be provided with automatic irrigation unless a landscape architect certifies that plants will survive without irrigation.
 - b. Landscaping shall be located along street frontages and building fronts to enhance the street appearance of a development.
 - c. Outdoor storage and garbage collection areas shall be entirely screened with vegetation, fence, or wall. (Ord. 688, 6-15-1999)
 - d. Based on anticipated vehicle and pedestrian traffic and the condition of adjacent streets and rights of way, the city may require right of way improvements including, but not limited to, paving, curbs, sidewalks, bikeways, lighting, turn lanes, and other facilities needed because of anticipated vehicle and pedestrian traffic generation. Minimum requirements shall conform to the standards of subsection 11-4-2C of this code, minimum street standards and the public works standards. (Ord. 710, 5-7-2002)
 - e. Access shall generally be taken from the higher classification street when a development fronts more than one street, except in the case of developments along Highway 730, which shall take access from an alley or a side street unless there is no alternative.
 - f. Developments shall provide an on site pedestrian circulation system that connects building entrances, public sidewalks, bicycle and automobile parking areas, and parts of the site or abutting properties that may attract pedestrians. Walkways shall maintain a clear width of at least five feet (5') and shall be separated from vehicles by curbs, raised bumpers, planter strips, or similar barriers. Walkways through parking areas or crossing driveways shall be clearly identified by a different material or pavement markings or both. Walkways shall be in clearly visible locations to promote safety. Walkways shall be hard surfaced.
 - g. The primary building and entry orientation shall be to the fronting street rather than a parking lot.
 - h. All buildings shall incorporate ground floor windows along street facades, with at least twenty percent (20%) of any wall within thirty feet (30') of a street consisting of display areas, windows, or doorways.
 - i. Building facades facing a street shall include changes in relief such as cornices, columns, gables, bay windows, recessed entries, or similar architectural or decorative elements.
 - j. A drive through use shall be oriented to the side or rear of a building and shall be designed to minimize conflicts with pedestrians and vehicles.
4. Access Standards For All Uses:
 - a. New Connections: New connections shall not be permitted within the functional area of an intersection or interchange as defined by the connection spacing standards of this title and public works standards¹, unless no other reasonable access to the property is available.
 - b. Access Connections: Where no other alternative exists, the city administrator may allow construction of an access connection along the property line farthest from the

- intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.
- c. Cross Access Drives, Pedestrian Access: Adjacent commercial or office properties such as shopping plazas and office parks that are major traffic generators shall provide a cross access drive and pedestrian access to allow circulation between sites.
 - d. Separation Distance: The city may reduce the required separation distance of access points where they prove impractical, provided all of the following requirements are met:
 - 1) Joint access driveways and cross access easements are provided.
 - 2) The site plan incorporates a unified access and circulation system.
 - 3) The property owner enters into a written agreement with the City, recorded with the deed, that preexisting connections on the site will be closed and eliminated after construction of each side of a joint use driveway.
 - 4) The City may modify or waive the requirements of this Section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical.
 - e. Driveway Standards: Driveways shall meet the following standards:
 - 1) If the driveway is one way in or out, the minimum width shall be ten feet (10') and appropriate sign(s) designating the driveway as a one-way connection shall be provided.
 - 2) For two-way access, each lane shall have a minimum width of ten feet (10').
 - 3) The length of a driveway shall be designed in accordance with the anticipated storage length of entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.
 - f. Phased Developments: Development sites under the same ownership or consolidated for the purpose of development and comprising more than one building site, shall be reviewed as a single property for the purposes of complying with access standards. The number of access points permitted shall be the minimum number necessary to provide reasonable access to the site, not the minimum for that frontage.
 - g. Nonconforming Access Features: Legal access connections in place when this Title was adopted that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards when new access connection permits are requested or when there is a change in use or enlargement or improvement that will increase trip generation.
 - h. Reverse Frontage: Lots that front on more than one street shall be required to locate motor vehicle accesses on the street with the lower functional classification. This requirement may be waived or modified when a commercial or industrial use would be required to take access from a street in a residential neighborhood.
 - i. Review By The Oregon State Department Of Transportation: Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with State access management standards. (Ord. 688, 6-15-1999)

10-13-3: AMENDMENTS TO THE ZONING TEXT OR MAP:

- A. Type IV Procedure: Amendments to the zoning title text or Official Map are considered a Type IV procedure. A Map change may be legislative or quasi-judicial, depending on the number of properties and area involved. A text change is always a legislative decision.
- B. Initiation Of Application: An application may be initiated by a property owner or authorized agent, the Planning Commission, or the City Council.
- C. Narrative, Identification Required: An application shall include a narrative that demonstrates compliance with the approval criteria and a site and vicinity map identifying the property and adjacent properties.
- D. Approval Criteria: An amendment to this Title or Official Map shall comply with the following criteria:
 - 1. The proposed designation is consistent with and supports the purposes of the portions of the City's Comprehensive Plan not proposed for amendment, or circumstances have changed to justify a change in the Comprehensive Plan.
 - 2. The proposed change will not affect the land supply for the existing zoning designation as related to projected need for the particular land use.
 - 3. The proposed designation will not negatively impact existing or planned public facilities and services.
 - 4. The site is suitable for the proposed use, considering the topography, adjacent streets, access, size of the site, availability of public facilities, and any other pertinent physical features.
 - 5. Other sites in the City or the vicinity are unsuitable for the proposed use. In other words, ownership and desire to develop a particular use in themselves provide insufficient rationale for changing a zoning designation that does not support the interests of the City as a whole. (Ord. 688, 6-15-1999)

10-13-4: ANNEXATION:

- A. Initiation; Type IV Procedure: An annexation may be initiated by the City or a property owner or owners, and is a quasi-judicial decision considered as a Type IV procedure.
- B. Zoning Designation: Territory proposed to be annexed shall be assigned a zoning designation that most closely corresponds to the Comprehensive Plan designation unless an amendment to the Zoning Map is proposed and considered as set forth in Section 10-13-3 of this Chapter.
- C. Approval Criteria: A decision on an annexation proposal shall be based on whether:
 - 1. The site is within the urban growth boundary for the City.
 - 2. It is economically and technically feasible to provide services to the area.

3. The proposal is consistent with the Comprehensive Plan or substantial changes in conditions have occurred which render the Plan inapplicable to the annexation. (Ord. 688, 6-15-1999)

CHAPTER 14 ADMINISTRATIVE PROVISIONS

10-14-1: PURPOSE:

This Chapter provides the procedures by which the City shall review and decide upon applications for all permits relating to the use of land authorized by Oregon Revised Statutes chapters 197 and 227. Any applicant may elect to consolidate applications for two (2) or more related permits required for a single development project. (Ord. 688, 6-15-1999)

10-14-2: SUMMARY OF THE CITY'S DECISION-MAKING PROCESSES:

- A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria and include zoning approval for single-family residences and final subdivision and planned unit development plans generally in conformance with approved preliminary plans. The City Administrator issues a Type I decision. Type I decisions are not conditional use or limited land use decisions. There is no right to approval of a Type I decision.
- B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowed in the underlying district. The review focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant and property owners within one hundred feet (100'). The City Administrator accepts comments for fourteen (14) days and renders a decision. The City Administrator's decision may be appealed to the Planning Commission by any party with standing (i.e., the applicant and any party who submitted comments in writing during the 14 day period). The Planning Commission's decision is the City's final decision and may be appealed to the Land Use Board of Appeals within twenty one (21) days of becoming final. The City Administrator issues a Type II decision.
- C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, and similar determinations (the process for these land use decisions is controlled by Oregon Revised Statutes 197.763). Notice of the application and the Planning Commission hearing is published in the newspaper of record and mailed to the applicant, property owners within one hundred feet (100'), and interested agencies. Notice must be issued at least twenty (20) days before the hearing and the staff report must be available at least seven (7) days before the hearing. At the hearing held before the Planning Commission, all issues must be addressed. The Planning Commission's decision may be appealed to the City Council. The City Council's decision is the City's final decision and may be appealed to the Land Use Board of Appeals.

D. Type IV decisions include only annexations and both legislative and quasi-judicial amendments to the Comprehensive Plan text and Map or to the Zoning Ordinance text and Map. These applications involve the greatest amount of discretion and evaluation of subjective approval criteria. The process for these land use decisions is controlled by Oregon Revised Statutes 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, property owners within one hundred feet (100'), and interested agencies. Notice must be mailed at least twenty (20) days before the hearing and the staff report must be available at least seven (7) days before the hearing. The Planning Commission's decision is a recommendation to the City Council. Notice is given for the City Council hearing as for the Planning Commission hearing. The City Council's decision is the final decision and may be appealed to the Land Use Board of Appeals.

SUMMARY OF THE APPROVAL PROCESS

Permit type	I	II	III	IV
Site Review ¹		X		
Review of a single-family residence for zoning	X			
Conditional Use Permit			X	
Planned Unit Development			X	
Adjustment		X		
Variance			X	
Subdivision (See Title 11 of this Code)			X	
Final plat for subdivision or Planned Development			X	
Code interpretation or use determination			X	
Comprehensive Plan amendment Or zone change				X
Annexation				X
Verification of nonconforming status		X		
Revocation of permit		X		
Appeal of a Type II design			X	
Appeal of a Type III quasi-judicial decision				X

1. Site review may be included with a Type III review for conditional use permit, planned unit development, or other permit. (Ord. 688, 6-15-1999)

10-14-3: PREAPPLICATION CONFERENCE:

A. Recommendation: Prior to submitting an application for a permit, the City recommends that an applicant schedule and attend a pre-application conference with the staff to discuss the proposal. The City Administrator may waive this requirement if the scale of the project does not warrant a meeting.

- B. Scheduling And Request For Comments: An applicant shall submit an application and pay the appropriate fee to schedule a pre-application conference. The application shall include sufficient information in the form of narrative and plans for the City and any interested agencies to review the proposal. The City will review the project and request comments from other interested agencies to provide the applicant with information on the likely requirements, approval standards, fees, and any other information that may affect the proposal. The City Administrator will provide the applicant with a written summary of the conference within ten (10) working days of the meeting.
- C. Caveat: Notwithstanding any representations by the City at a pre-application conference, the City is not authorized to waive any requirements of this Code and any omission or failure by the staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement. (Ord. 688, 6-15-1999)

10-14-4: APPLICATION:

A permit application may only be initiated by the record property owner or contract purchaser, the City Council, or the Planning Commission. The City will not accept an application without the signed authorization from all record owners.

- A. All permit applications shall be submitted on a form provided by the City, along with all necessary supporting documentation and information sufficient to demonstrate compliance with all applicable approval criteria and standards, and the appropriate fee. The applicant has the burden of demonstrating, with evidence, that all approval criteria and standards are, or can be, met.
- B. A complete application includes all the materials listed in this Section and any specific information requested for a particular permit. The City Administrator may waive the submission of any of the materials if not deemed to be applicable to the specific review sought. Likewise, within thirty (30) days of submission of the application, the City Administrator may require additional information beyond that listed in this subsection, such as a traffic report or other study prepared by an appropriate expert. The applicant is responsible for the completeness and accuracy of the application and all supporting documentation.
 - 1. A completed City application form that includes:
 - a. An accurate legal description, tax account number(s), map number, and street location of all properties that are the subject of the application.
 - b. Name, address, telephone number, and authorized signature(s) of all record property owners or contract owners, and the name, address, and telephone number of the applicant, if different from the property owner(s).
 - 2. A complete list of all City permit approvals sought by the applicant in this application.
 - 3. A complete and detailed narrative describing the proposed development, existing site conditions, public facilities and services, natural features including wetlands and steep slopes, a discussion of the approval criteria and standards for all permits explaining how

the criteria and standards are, or can be, met, and any other information indicated by the City at the pre-application conference as being required.

4. A site plan or plans and a vicinity map, drawn to scale. The site plan shall include at least the following features, along with any other information necessary to understand the proposal:
 - a. Dimensions of the site and all structures, existing and proposed.
 - b. Existing conditions, including topography and any other physical features such as vegetation, wetlands, watercourses, slopes, etc.
 - c. Rights of way abutting the site, whether public or private, and access to the site.
 - d. Locations and sizes of all public utilities, existing and proposed, on and in the vicinity of the site.
 - e. Locations, dimensions, and purposes of all recorded easements.
 - f. Size of areas (in square feet) and percentages of the total site area devoted to structures, parking, landscaping, open space, dedication of right of way, and any other proposed feature.
 - g. Proposed landscaping plan, including size, species, and location of plants or other elements.
 - h. Parking plan.
 - i. Detail of screening and fencing.
 - j. Exterior lighting, including location, type, height, and areas of illumination.
 - k. Service areas for trash collection, mail delivery, etc.
5. The applicant shall provide the City with up to twenty (20) copies of all reports, plans, site plans, and other documents required by this Section. The number of copies will be determined at the pre-application conference. One copy of all plans and maps reduced to eight and one-half inches by eleven inches (8 1/2" x 11") or eleven inches by seventeen inches (11" x 17"), and suitable for reproduction.
6. All required application fees. (Ord. 688, 6-15-1999)

10-14-5: COMPLETENESS REVIEW:

- A. The City Administrator shall accept an application and verify that all appropriate fees have been paid. The City Administrator will review the application and all information submitted with it and evaluate whether the application is complete enough to process. Within thirty (30) days of receipt of the application, the City Administrator shall complete this initial review and issue a written statement to the applicant indicating whether the application is complete or, if not, what information must be submitted to make the application complete.
- B. The applicant has one hundred eighty (180) days from the date the application was submitted to provide any required additional information or the application shall be rejected and all materials and any unused portion of the application fee shall be returned to the applicant. If the applicant submits the requested information within the one hundred eighty (180) day period, the City Administrator shall again verify whether the application, as augmented, is complete.

- C. When the City Administrator determines the application is complete or the applicant refuses to submit any more information, the City Administrator shall declare the application complete and take final action on the application within one hundred twenty (120) days of that date unless the applicant waives or extends the one hundred twenty (120) day period. (Ord. 688, 6-15-1999)

10-14-6: PUBLIC NOTICES:

- A. Notice Of Type I Applications: Notice of the decision is provided only to the applicant. No other notice is required because a Type I application does not involve a land use decision.
- B. Notice Of Type II Applications: The City shall prepare and send notice of an application by first class mail to all record owners of property within one hundred feet (100') of the subject property and to any interested agency, including Umatilla County, the Oregon Department of Transportation, and other agencies that might have a facility or jurisdiction affected by the proposal. The notice shall include the following information:
1. The City's assigned file number.
 2. Street address or other easily understood location of the subject property.
 3. A description of the proposal, along with citations of the approval criteria and standards that the City will use to evaluate the proposal.
 4. A statement that any interested party may submit to the City written comments on the application during a fourteen (14) day comment period prior to the City's deciding on the application. Instructions on where to send comments and the deadline for the comment period will be clearly stated.
 5. A statement that any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised in writing during the fourteen (14) day comment period with sufficient specificity to enable the City to respond to the issue.
 6. A statement that the application and all supporting materials may be inspected, and copied at cost, at City Hall during normal business hours.
 7. The name and telephone number of the City staff person assigned to the application who is able to answer questions about the application.
- C. Notice Of Type III And Type IV Quasi-Judicial Applications: At least twenty (20) days prior to the hearing, the City shall prepare, and send by first class mail, notice of the hearing to all record owners of property within one hundred feet (100') of the subject property. The City shall also publish a notice in a newspaper of general circulation within the City at least ten (10) days prior to the hearing. Notice of the application shall include the following information:
1. The City's assigned file number and title of the proposal.

2. The time, date, and location of the public hearing.
3. The street address or other easily understood location of the site.
4. A description of the proposal in sufficient detail for people to determine the nature of the proposal, including a description of the area or location of the land that will be affected by the proposal.
5. A list of the approval criteria and standards that the City will use to evaluate the proposal.
6. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing.
7. The name and telephone number of the City staff person assigned to the application who is able to answer questions about the application.
8. A statement that failure of any person entitled to notice under this Section to receive notice shall not invalidate the action, provided that the City can demonstrate by a certificate of mailing that such notice was sent.
9. A statement that the application and all supporting materials may be inspected, and copied at cost, at City Hall during normal business hours. (Ord. 688, 6-15-1999)

10-14-7: QUASI-JUDICIAL HEARING PROCESS:

All public hearings pertaining to quasi-judicial permits, whether before the Planning Commission or City Council, shall comply with the procedures of this Section. In addition, all public hearings held pursuant to this Chapter shall comply with the Oregon Public Meetings Laws, the applicable provisions of Oregon Revised Statutes 197.763, and any other applicable law.

- A. **Hearing Scheduled:** When the City Administrator determines that an application for a Type III or IV quasi-judicial decision is complete or when an appeal of a City Administrator's decision on a Type II application has been filed, a hearing shall be scheduled before the Planning Commission or City Council.
- B. **Notice Of Hearing:** Notice of the hearing shall be issued at least twenty (20) days prior to the hearing in accordance with Section 10-14-6 of this Chapter.
- C. **Comments From Interested Agencies:** The City Administrator shall request comments from interested agencies which may have facilities or jurisdiction affected by the proposal, including, but not limited to, the State Department of Transportation, Umatilla County, the irrigation district, and any other public or private utility or agency.
- D. **Report:** The City Administrator shall prepare a staff report on the application that lists the applicable approval criteria and standards, describes the application and the development

proposal, summarizes all relevant City department, agency, and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and standards, and makes a recommendation as to whether each of the approval criteria and standards are met.

- E. Announcement: At the beginning of the initial public hearing for any quasi-judicial application or appeal, the following statement shall be announced to those in attendance:
1. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation, and decision.
 2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria and standards. If any person believes that other criteria or standards apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open.
 3. Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue, will preclude appeal on that issue to LUBA.
 4. Any party wishing a continuance or to keep the record open must make that request while the record is still open.
 5. That the Commission or Council chair shall call for any ex parte contacts, conflicts of interest, or bias before the beginning of each hearing item.
- F. Requests For Continuances And To Keep The Record Open: The Planning Commission or City Council may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time certain and location for the continued hearing is established. Similarly, the hearing may be closed, but the record left open for the submission of additional written material or other documents and exhibits. The factual and legal issues that may be addressed in any continued hearing or open-record period may be limited.
- G. Decision: The Planning Commission or City Council shall identify the basis for its decision in findings of fact and conclusions of law. The findings of fact and conclusions of law may be the staff's report, may be prepared by the applicant, or may be prepared by any other party. When Planning Commission or City Council reaches a tentative decision on any matter, it shall direct the staff or other party to prepare appropriate findings and conclusions, then it shall review the tentative decision before the decision is issued as a final decision. The Planning Commission or City Council may reconvene in public hearing to resolve any questions before the decision becomes final and is signed by the Planning Commission or Council chair. (Ord. 688, 6-15-1999)

10-14-8: NOTICE OF DECISION AND CONDITIONS OF APPROVAL:

- A. Authority: All City decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval criteria and standards are, or can be, met.
- B. Revocation, Code Enforcement Proceedings: Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting Code enforcement proceedings.
- C. Notice Of Decision: The City shall send, by first class mail, a notice of all decisions rendered under this Chapter to all persons with standing, i.e., the applicant, all others who participated either orally or in writing before the close of the public record, and those who specifically requested notice of the decision. The notice of decision shall include the following information:
 - 1. The file number and date of decision.
 - 2. The name of the applicant, owner, and appellant (if different).
 - 3. The street address or other easily understood location of the subject property.
 - 4. A brief summary of the decision, and if an approval, a description of the permit approved.
 - 5. A statement that the decision is final unless appealed and a description of the requirements for filing an appeal.
 - 6. A statement that a copy of the final decision may be inspected or copies obtained at City Hall, with an address and telephone number.
- D. Modification Of Conditions: Any request to modify a condition of permit approval shall be processed in the same manner, and shall be subject to the same standards, as was the original application. However, the decision maker may at its sole discretion, consider a notification request and limit its review of the approval criteria and standards to those issues or aspects of the application that are proposed to be changed from what was originally proposed. A request to modify a decision already signed and final will not affect the finality or enforceability of that decision. (Ord. 688, 6-15-1999)

10-14-9: PERFORMANCE GUARANTEES:

When conditions of permit approval require the applicant to construct certain improvements, the City may allow the applicant to submit a financial guarantee in lieu of actual construction of the improvement. Financial guarantees are covered by this Section.

- A. Form Of Guarantees: Guarantees shall be in a form approved by the City Attorney, and may include an irrevocable standby letter of credit issued by a recognized lending institution to the benefit of the City, a certified check, dedicated bank account, or allocation of a

construction loan held in reserve by the lending institution for the benefit of the City. The guarantee shall be filed with the City Administrator.

- B. Amount Of Guarantee: The amount of the performance guarantee shall be equal to at least one hundred ten percent (110%) of that estimated cost of constructing the improvement in question. The amount of the performance guarantee may be larger than one hundred ten percent (110%) if deemed necessary by the City Administrator. The cost estimate substantiating the amount of the guarantee must be provided by the applicant and supported by either an engineer's or architect's estimate or written estimates by three (3) contractors with their names and addresses. The estimates shall separately itemize all materials, labor, and other costs.
- C. Duration Of The Guarantee: The guarantee shall remain in effect until the improvement is actually constructed and accepted by the City. Once the City has inspected and accepted the improvement, the City shall release the guarantee to the applicant. If the improvement is not completed to the City's satisfaction within the time limits specified in the permit approval or the guarantee, the City Administrator may, at his discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the City. Once constructed and approved by the City, any remaining funds shall be refunded to the applicant.
- D. Deferral: The City may allow an applicant to defer construction of improvements, if the applicant provides a financial guarantee. The applicant shall agree to construct those improvements upon written notification by the City, or at some other mutually agreed-to time. If the applicant fails to commence construction of the required improvements within six (6) months of being instructed to do so, the City may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in subsection C of this Section. (Ord. 688, 6-15-1999)

10-14-10: COVENANT WITH THE CITY:

- A. Imposition; Elements: The City may impose as a condition of final approval of a quasi-judicial permit, the requirement that the applicant execute a covenant with the City agreeing to comply with all conditions of approval. Any such covenant shall include the following elements:
 - 1. An agreement that the applicant will comply with all applicable Code requirements, conditions of approval, and any representations made to the City by the applicant or the applicant's agents during the application review process, either orally or in writing. This commitment shall be binding on the applicant and all of the applicant's successors, heirs, and assigns.
 - 2. If the owner fails to perform under the covenant, the City may immediately institute revocation of the approval or any other enforcement action available under State law or this Code. The covenant may also provide for payment of attorney fees and other costs associated with any such enforcement action.

3. Where the development rights of one site are dependent on the performance of conditions by the owner of another property (such as joint access), the covenants shall be judicially enforceable by the owner of one site against the owner of another.
- B. Adopting The Covenant: The form of all covenants shall be approved by the City Attorney. The covenant shall run with the land and shall be placed in the County deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the City. Recording shall be at the applicant's expense. Any covenant required under this Section shall be properly signed and executed within thirty (30) days after permit approval with conditions; provided however, that the City Administrator may grant reasonable extensions, not to exceed an additional thirty (30) days, in cases of practical difficulty. Failure to sign and record the covenant within the prescribed period shall render the approval null and void. (Ord. 688, 6-15-1999)

10-14-11: EX PARTE CONTACT, CONFLICT OF INTEREST, AND BIAS:

The following rules shall govern any challenges to a decision maker's participation in a quasi-judicial or legislative action:

- A. Ex Parte Contacts: Any factual information obtained about a land use application by a decision maker outside the context of a quasi-judicial hearing shall be deemed an ex parte contact. Prior to the close of the record in any particular matter, any decision maker that has obtained any material factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This rule does not apply to legislative proceedings.
- B. Conflict Of Interest: Whenever a decision maker, or any member of a decision maker's immediate family or household, has a financial interest in the outcome of a particular quasi-judicial or legislative matter, that decision maker shall not participate in the deliberation or decision on that matter.
- C. Bias: All decisions in quasi-judicial matters shall be fair, impartial, and based on the applicable approval standards and the evidence in the record. Any decision maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This rule does not apply to legislative proceedings. (Ord. 688, 6-15-1999)

10-14-12: LEGISLATIVE HEARING PROCESS:

- A. Purpose: Legislative actions involve the adoption or amendment of the City's land use regulations, Comprehensive Plan, maps, inventories, and other policy documents that affect the entire City or large portions of the City. Legislative actions which affect land use must begin with a public hearing before the Planning Commission.
 1. Hearing Required: The Planning Commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The City

Administrator shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post acknowledgment procedures of Oregon Revised Statutes 197.610 to 197.625, as applicable.

2. City Administrator's Report: The City Administrator shall prepare and make available a report on the legislative proposal at least seven (7) days prior to the hearing.
3. Planning Commission Recommendation: At the conclusion of the hearing, the Planning Commission shall adopt a recommendation on the proposal to the City Council. If the Planning Commission has initiated the action and decides that no action is appropriate, the matter is terminated and the decision is terminated and may not be appealed unless otherwise provided by law. If the City Council initiated the legislative proposal, the Planning Commission shall submit to the City Council a report and recommendation on the proposal.

B. City Council Review:

1. City Council Action: Upon a recommendation from the Planning Commission on a legislative action, the City Council shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the City Council may adopt, modify, or reject the legislative proposal, or it may remand the matter to the Planning Commission for further consideration. If the decision is to adopt at least some form of the proposal and thereby amend the City's land use regulations, Comprehensive Plan, Official Zoning Maps, or some component of these documents, the City Council's decision shall be enacted as an ordinance.
2. Notice Of Final Decision: Not later than five (5) days following the City Council's final decision, the City Administrator shall mail notice of the decision to DLCD in accordance with Oregon Revised Statutes 197.615(2) and to any party who participated, either orally or in writing, before the Planning Commission or City Council. (Ord. 688, 6-15-1999)

10-14-13: OBJECTIONS TO PROCEDURE:

Any party who objects to the procedure followed in any particular matter, including bias, conflict of interest, and undisclosed ex parte contacts, must make a procedural objection prior to the City's rendering a final decision. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived. In making a procedural objection, the objecting party must identify the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights. (Ord. 688, 6-15-1999)

10-14-14: APPEALS:

Appeals of any non-final decisions by the City must comply with the requirements of this Section.

- A. Decisions Appealed: Type I decisions by the City Administrator are not appealable to any other decision maker within the City. Type II decisions by the City Administrator may be appealed to the Planning Commission. Type III decisions of the Planning Commission may

be appealed to the City Council, which is the final City decision on any matter. Type IV decisions by the Planning Commission are recommendations only and are forwarded automatically to the City Council. Type IV decisions do not become final until acted upon by the City Council.

- B. Notice Of Appeal: A notice of appeal of a Type II decision by the City Administrator and any Type III decision by the Planning Commission must be received in writing by the City Administrator within ten (10) calendar days from the date notice of the challenged decision is provided to those entitled to notice.
- C. Information Required: The following must be included in a notice of appeal:
 - 1. The City's file number and date the decision to be appealed was rendered. The name, mailing address, and daytime telephone number for each appellant.
 - 2. A statement of how each appellant has an interest in the matter and standing to appeal.
 - 3. A statement of the specific grounds for the appeal.
 - 4. The appropriate appeal fee. Failure to include the appeal fee with the notice of appeal is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
- D. Standing To Appeal: The following rules prescribe who has standing to appeal:
 - 1. For Type II decisions, only the applicant and those persons who submitted written comments within the fourteen (14) day comment period have standing to appeal a City Administrator's decision. For persons other than the applicant, grounds for appeal are limited to those issues raised in writing during the fourteen (14) day comment period.
 - 2. For Type III decisions, only the applicant and those who participated either orally or in writing have standing to appeal a Planning Commission decision. For persons other than the applicant, grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record.
- E. Notice Of The Appeal Hearing: The City shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record. Notice of the appeal hearing shall contain the following information:
 - 1. The file number and date of the decision being appealed.
 - 2. The time, date, and location of the public hearing.
 - 3. The name of the applicant, owner, and appellant (if different).
 - 4. The street address or other easily understood location of the subject property.
 - 5. A description of the permit requested and the applicant's development proposal.

6. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal.
 7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal.
 8. A general explanation of the requirements for participation and the City's hearing procedures.
- F. Appeal Hearing, Scope Of Review: Appeal hearings shall comply with the procedural requirements of Section 10-14-7 of this Chapter. Appeal hearings conducted by the Planning Commission shall be de novo, but the issues under consideration shall be limited to those listed in the notice of appeal. Appeal hearings conducted by the City Council shall be on the record and the issues under consideration shall be limited to those listed in the notice of appeal. (Ord. 688, 6-15-1999)

10-14-15: EXPIRATION OF AN APPROVAL:

- A. Automatic Expiration: All quasi-judicial permit approvals, except for Zoning Map or Comprehensive Plan Map amendments, automatically become void if any of the following events occur:
1. If, within one year of the date of the final decision, a building permit has not been issued, or
 2. If, within one year of the date of the final decision, the activity approved in the permit has not commenced or, in situations involving only the creation of lots, the final plat of a land division has not been approved by the City and recorded.
- B. New Application Required: Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.
- C. Deferral Of Expiration Period Due To Appeals: If a permit decision is appealed beyond the jurisdiction of the City, the expiration period shall not begin until review before LUBA and the appellate courts has been completed, and any remand proceedings before the City. The expiration period provided for in this Section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed). (Ord. 688, 6-15-1999)

10-14-16: EXTENSION OF AN APPROVAL:

- A. The City may extend any approved permit prior to its expiration for a period of six (6) months through a Type II procedure. No more than two (2) such extensions may be approved and only if there has been substantial implementation of the permit. Any request for an extension shall be reviewed and decided upon by the City in the same manner as the original approval.
- B. Substantial implementation of a permit shall require at a minimum, for each six (6) month extension, demonstrable evidence in a written application showing:

1. The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit.
2. The request for an extension is not sought for purposes of avoiding any responsibility imposed by this Code or the permit or any condition thereunder.
3. There have been no changes in circumstances or the law that would require significant modifications of the original approval or which would preclude approval. (Ord. 688, 6-15-1999)

10-14-17: REAPPLICATION LIMITED:

If an application is denied, no reapplication for the same or substantially similar proposal may be made for one year following the date of final decision denying the application. (Ord. 688, 6-15-1999)

10-14-18: INTERPRETATION:

Where a provision of the Comprehensive Plan, this Title or Title 11 of this Code conflicts with another City ordinance or requirement, the provision or requirement that is more restrictive or specific shall control. (Ord. 688, 6-15-1999)

10-14-19: CONFORMITY OF PERMITS:

The City shall not accept any application for a permit, certificate, or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of the Comprehensive Plan, this Title and Title 11 of this Code, and with any permit approvals previously issued by the City, unless the application proposes returning the property or structure to full compliance. (Ord. 688, 6-15-1999)

10-14-20: AUTHORIZATION OF SIMILAR USES:

The Planning Commission may decide, through a Type III process, that a use not specifically listed in the allowed uses of a zoning district may nonetheless be allowed if it is deemed to be similar in nature and impact to the uses allowed in the applicable district. Any similar use so authorized must be similar to, or of the same type as, the uses allowed in the underlying district. However, this Section does not allow the authorization of a use which is allowed in some other district. (Ord. 688, 6-15-1999)

10-14-21: RECONSIDERATION OF A FINAL DECISION:

Under this Section, parties with standing may seek reconsideration of a final decision rendered pursuant to a Type II, III, or IV process. Reconsideration is warranted where the City's decision indicates that the decision maker failed to understand or consider certain relevant facts or misinterpreted the application or legal standards in some material way. Any request for reconsideration must be received by the City within ten (10) days of when the decision in question was rendered and must specifically describe the alleged misunderstanding or misinterpretation. A request for reconsideration shall not stay the effectiveness of the City's final decision, nor shall it affect any applicable appeal deadlines to LUBA. If the request is granted, the City Administrator shall notify all affected parties that the decision will be reconsidered. If the reconsideration is based upon new evidence or information, all parties with standing shall

have the opportunity to review and comment on the new evidence or information. Any request for reconsideration by the applicant shall be deemed a waiver of the one hundred twenty (120) day deadline under subsection 10-14-5C of this Chapter. The City's decision on a request for reconsideration is not a land use decision and is not appealable. (Ord. 688, 6-15-1999)

10-14-22: REVOCATION OF A PREVIOUSLY APPROVED PERMIT:

In the event an applicant or applicant's successor in interest fails to comply with all conditions of permit approval or otherwise does not comply fully with the City's approval, the City may institute a revocation or modification proceeding under this Section.

- A. Situations When Permit Approvals May Be Revoked Or Modified: All quasi-judicial permits may be revoked or modified if the Planning Commission determines a substantial likelihood that any of the following situations exists:
1. One or more conditions of the approval have not been implemented or have been violated.
 2. The activities of the use, or the use itself, are substantially different from what was approved.
 3. The use is subject to the nonconforming use regulations, the owner or operator has not obtained approval, and has substantially altered the nature or extent of the use since the time the use became nonconforming.
- B. Process For Revocation And Modification: Revocation or modification shall be processed as a Type III decision. The City or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the City's approval.
- C. Possible Actions At The Revocation Hearing: Depending on the situation, the Planning Commission may take any of the actions described in this Section. The Planning Commission may not approve the new use or a use that is more intense than originally approved unless the possibility of this change has been stated in the public notice. Uses or development which are alleged to have not fulfilled conditions, violated conditions, or when the use is not consistent with the City's approval may be subject to the following actions:
1. The Planning Commission may find that the use or development is complying with the conditions of the approval. In this case, the use or development shall be allowed to continue.
 2. The Planning Commission may modify the approval if it finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if certain conditions are met. In this case, the Planning Commission may modify the existing conditions, add new conditions to ensure compliance with the approval criteria and standards, or refer the case to the Code Compliance Officer for enforcement of the existing conditions.

3. The Planning Commission may revoke the approval if it finds there are substantial violations of conditions or failure to implement conditions of prior land use decisions, such that the original approval criteria for the use or development are not being met.

D. Effect Of Revocation: In the event that the permit approval is revoked or the use is declared to be illegal, the use or development shall be terminated within thirty (30) days of the date of the Planning Commission's final order, unless the decision provides otherwise. In the event the decision on a revocation request is appealed, the revocation action shall be stayed pending a final, unappealed decision. (Ord. 688, 6-15-1999)

10-14-23: TRANSFER OF APPROVAL RIGHTS:

Unless otherwise stated in the City's permit decision, any approval granted under this Title runs with the land and is transferred with the ownership of the land. Any conditions, time limits, or other restrictions imposed with a permit approval shall bind all subsequent owners of the property for which the permit was granted. (Ord. 688, 6-15-1999)

10-14-24: FEES:

The City may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals. Fees shall be based upon the City's actual or average cost of processing the application or conducting the appeal process. The only exception shall be the appeal fee for a Type II decision shall be limited by Oregon Revised Statutes 227.175(10)(b). The requirements of this Section shall govern the payment, refund, and reimbursement of fees.

- A. Payment: All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted or processed without the proper fee being paid.
- B. Refunds: Fees will only be refunded as provided in this subsection:
 1. Fee Not Required: When a fee is paid for an application which is later found to not be required, the City shall refund the fee.
 2. Errors: When an error is made in calculating a fee, overpayments will be refunded.
 3. Refund Upon Withdrawal Of An Application: In the event an applicant withdraws an application, the City shall refund the unused portion of the fee, if any. In this case, the City will deduct from the fee the City's actual costs incurred in processing the application prior to withdrawal.
- C. Fee Waivers: The City Administrator may waive all or any portion of an application or appeal fee if, in the opinion of the City Administrator, an application must be resubmitted because of an error made by the City. (Ord. 688, 6-15-1999)

10-14-25: WETLANDS NOTIFICATION PROVISIONS:

Notwithstanding any other notice required in this Title, written notice shall be provided to the Oregon Division of State Lands of applications which involve lands that are wholly or partially within areas that are identified as wetlands on the State-Wide Wetlands Inventory. Wetland

boundaries shall be verified in the field by a qualified professional before any application for development in or adjacent to a wetland is accepted as complete.

- A. Notice shall be sent within five (5) working days of the acceptance of a complete application for a subdivision, building permit for new structure, planned development, or any other development permit or approval that allows physical alteration of the land involving excavation, grading, fill, or construction on the land, and any development in a flood plain or floodway.
- B. Notice shall be sent if the City receives information that there is a possible wetland on the subject property following acceptance of the application. (Ord. 688, 6-15-1999)

10-14-26: ABATEMENT:

In case a building or other structure is or is proposed to be located, constructed, maintained, repaired, altered or used, or land is or is proposed to be used, in violation of this Title, the building or land thus in violation shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. Costs incurred as a result of entering into any such action shall be borne by the property owner and may become a lien against the property. (Ord. 688, 6-15-1999)

10-14-27: PENALTY:

A person who violates a provision of this Title shall, upon conviction, be punished by the imposition of a Class B civil fine as set forth in Title 1, Chapter 4 of this Code. A violation of this Title shall be considered a separate offense for each day the violation continues. (Ord. 688, 6-15-1999)