

Title 17 LAND USE AND DEVELOPMENT

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Chapter 17.01 INTRODUCTION

Sections:

- 17.01.010 Title.
- 17.01.020 Purpose.
- 17.01.030 Severability.
- 17.01.040 Pre-existing approvals.
- 17.01.050 Interpretation.
- 17.01.060 Right-of-way dedications and improvements.
- 17.01.070 Fees.

17.01.010 Title. The ordinances codified in this title shall be known as the "Scappoose Land Use and Development Code" and shall be referred to as this title. (Ord. 634 §1 Exh. A (part), 1995)

17.01.020 Purpose. As a means of promoting the general health, safety and welfare of the public, this title is designed to set forth the standards and procedures governing the development and use of land in Scappoose and to implement the Scappoose comprehensive plan. (Ord. 634 §1 Exh. A (part), 1995)

17.01.030 Severability. The provisions of this title are severable. If any chapter, section, sentence, clause or phrase of this title is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this title. (Ord. 634 §1 Exh. A (part), 1995)

17.01.040 Pre-existing approvals. All development applications approved more than one year prior to the adoption of this title shall be considered void, unless the planner determines that the conditions of approval are substantially completed or unless an extension has been granted by the planning commission. All development applications approved less than one year prior to the adoption of this title may occur according to such approvals. All development applications received by the planner after the adoption of this title shall be subject to review for conformance with the standards under this title or as otherwise provided by state law. (Ord. 634 §1 Exh. A (part), 1995)

17.01.050 Interpretation. A. Each development and use application and other procedure initiated under this title shall be consistent with the adopted comprehensive plan of the city as implemented by this title and applicable state and federal laws and regulations. All provisions of this title shall be construed in conformity with the adopted comprehensive plan.

B. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by any other provision of this title or of any other ordinance, or resolution, the most restrictive or that imposing the higher standard shall govern.

C. The planner shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this title. Requests for interpretations shall be in writing. The planner's interpretation may be appealed to the planning commission under the quasi-judicial process.

1. An interpretation is a decision which is made under land use standards that require an exercise of policy or legal judgement.

2. By definition, an interpretation does not include approving or denying a building permit issued under clear and objective land use standards or a limited land use decision.

D. When an interpretation is discretionary, notice shall be provided and the interpretation processed in accordance with the quasi-judicial process if specific property is involved or the legislative process if no specific property is involved.

E. The planner may develop administrative guidelines to aid in the implementation and interpretation of the provisions of this title.

F. The planner shall keep a written record of all interpretations and shall make the record available for review on written request.

G. The city council may exempt special events sponsored by nonprofit organizations and public agencies from the provisions of this title. A special event is an activity sponsored by a nonprofit organization or public agency lasting fourteen calendar days or less and approved by the city council. (Ord. 634 §1 Exh. A (part), 1995)

17.01.060 Right-of-way dedications and improvements. Upon approval of any development permit or any land use approval of any property which abuts or is served by an existing substandard street or roadway, the applicant shall make the necessary right-of-way dedications for the entire frontage of the property to provide for minimum right-of-way widths according to the city's public works design standards and shall improve the abutting portion of the street or roadway providing access to the property in accordance with the standards in Chapter 17.154. (Ord. 634 §1 Exh. A (part), 1995)

17.01.070 Fees. The city council shall, by resolution, establish fees to be paid by applicants for permits or approvals required in this title. Fees shall be paid at time of application or permit request, and failure to pay required fees shall cause any application to be deemed incomplete. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.01.170 REVIEW OF APPLICATIONS FOR COMPENSATION UNDER ARTICLE I, SECTION 18 OF THE CONSTITUTION OF OREGON (BALLOT MEASURE 7, PASSED 11-7-00)

Sections:

- 17.01.170.010 Purposes.
- 17.01.170.020 Definitions.
- 17.01.170.030 Preapplication conference.
- 17.01.170.040 Application for compensation.
- 17.01.170.050 Process of review of application for compensation.
- 17.01.170.060 Conditions of approval, revocation of decision and transfer of approval rights.
- 17.01.170.070 Ex parte contacts, conflict of interest and bias.
- 17.01.170.080 Availability of funds to pay claims.
- 17.01.170.090 Severability.

17.01.170.010 Purposes. The purpose of this chapter is to accomplish the following regarding applications for compensation submitted pursuant to Article 1, Section 18 of the Constitution of Oregon as amended by Ballot Measure 7, passed 11-7-00: Process claims quickly, openly, thoroughly and consistently with the Oregon and U.S. Constitutions; enable persons with claims to have an adequate and fair opportunity to present them to the city's decision maker; preserve and protect limited public funds; and, establish a record of decision capable of appellate review.

This chapter shall be interpreted in a manner consistent with Article I, Section 18 of the Constitution of Oregon as amended by Ballot Measure 7, passed November 7, 2000 and implementing Oregon Statutes or regulations as interpreted by Oregon appellate courts. (Ord. 700, §1, 2000)

17.01.170.020 Definitions. "Affiliated owner" means any entity, business, association, partnership, corporation, limited liability, company, limited liability partnership which share ownership, control, lease or management of more than twenty-five percent ownership or leasehold interest in the property.

"Appraisal" means an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the state of Oregon.

"City manager" means the city manager of the city of Scappoose or his/her delegate.

"Exempt regulation" means: (1) a regulation which imposes regulation required under federal law, to the minimum extent required by federal law; or (2) a regulation prohibiting the use of a property for the purpose of selling pornography, performing nude dancing, selling alcoholic beverages or other controlled substances, or operating a casino or gaming parlor, or (3) a regulation governing historically and commonly recognized nuisance laws, and the criminal laws of Oregon and the city of Scappoose.

"Property" means any real property and any structure built or sited on the property, aggregate and other removable minerals, and any forest product or other crop grown on the property. It includes only a single parcel or contiguous parcels in single ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

"Property owner" means a person who is the sole fee simple owner of the property, or a joint application by all owners whose interests add up to a fee simple interest in property (including all persons who represent all recorded interests in property, including co-owners, holders of less than fee simple interests, leasehold owners and security interest holders).

"Reduction in value" means the difference in the fair market value of the property before and after application of a regulation, and shall include the net cost to the landowner of an affirmative obligation to protect, provide or preserve wildlife habitat, natural areas, wetlands, ecosystems, scenery, open space, historical, archaeological or cultural resources, or low income housing.

"Regulation" means any law, rule, ordinance, resolution, goal or other enforceable enactment of the city of Scappoose. (Ord. 700 §1, 2000)

17.01.170.030 Preapplication conference. 1. Before submitting an application for compensation pursuant to this chapter, the applicant must schedule and attend a preapplication conference with the city manager or his/her delegate to discuss the application. The preapplication conference shall follow the procedure set forth by the city manager and may include a filing fee, and notice to neighbors and other organizations and agencies. Filing fees shall be refunded if claims are found to be valid.

2. To schedule a preapplication conference, the applicant must contact the city manager and pay the appropriate conference fee. The preapplication conference is for the applicant to provide a summary of the applicant's application for compensation to the city manager and for the city manager to provide information to the applicant about regulations that may affect the application. The city manager may provide the applicant with a written summary of the preapplication conference within ten days after it is held.

3. The city manager is not authorized to settle any application for compensation at a preapplication conference. Any omission or failure by staff to recite to an applicant all relevant applicable land use regulations will not constitute a waiver or admission by the city.

4. A preapplication conference is valid for six months from the date it is held. If no application is filed within six months of the conference, the applicant must schedule and attend another conference before the city will accept a claim application. The city manager may waive the preapplication requirements if, in the city manager's opinion, the application does not warrant such conference. (Ord. 700 §1, 2000)

17.01.170.040 Application for compensation. 1. Any property owner may file an application with the city manager for compensation pursuant to Article 1, Section 18, Constitution of Oregon.

a. An application for compensation shall be submitted for review upon forms established by the city. An application shall consist of all materials required by this chapter. An application will not be accepted for filing until found to be complete by the city manager after all application materials required by this ordinance have been submitted.

b. The city manager shall conduct a completeness review within fifteen days after submittal of the proposed application and shall advise the applicant, in writing, of any material remaining to be submitted. The applicant shall submit the material required for completeness within thirty days of the written notice that material remains to be submitted. If the applicant fails to provide the materials necessary to make the application complete within thirty days, the application shall not be accepted for filing.

c. The ninety day period for action by the city specified in Article 1, Section 18 of the Constitution of Oregon shall begin on the date the city manager deems an application complete and accepts it for filing. The city manager shall note the date of completeness and filing in writing upon the application.

2. An application for compensation will not be accepted for filing without all of the following information:

a. An application fee to be paid in advance of acceptance for filing to cover the costs of completeness review and application processing. Such fee shall be established by resolution of the council. Filing fee's shall be refunded if claims are found to be valid.

b. A completed application for compensation form.

c. Identification of the name, physical address, street address and phone number of the person filing the application for compensation. If the person filing the application is not the property owner of the real property, such information must also be provided for the property owner together with authorization to act on behalf of the property owner.

d. The address and legal description of the property that is the subject of the application.

e. Proof that the property allegedly affected by a regulation is in the exclusive fee simple ownership of the applicant or that the applicant has the consent of all owners, including co-owners and all security interests in the property.

f. The names and addresses of all property owners within three hundred feet of the property, and identification of any other property owned by the applicant or any affiliated owner within two hundred feet of the boundary of the property that is the subject of the application.

g. A title report from a title insurer, completed not more than thirty days before the date of application, including title history, a statement of the date the applicant acquired ownership of the property, the ownership interests of all owners of the property, and an assessor's map showing the location of the property.

h. A copy of the regulation that allegedly restricts the use of the real property and has allegedly caused a reduction in the fair market value of the

property, including the date the regulation was first passed, applied or first enforced on the property.

i. A copy of a written appraisal by an appraiser, qualified as such in the state of Oregon, indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after application of the regulation. If the claimed reduction in fair market value of the property is based on an alleged net cost to the landowner of an affirmative obligation to protect, provide, or preserve wildlife habitat, natural areas, wetlands, ecosystems, scenery, open space, historical, archaeological or cultural resources or low income housing the appraisal shall establish that net cost. If the claim is for more than ten thousand dollars copies of three appraisals must be included. If the claim is for ten thousand dollars or less, one appraisal must be included.

j. A statement by the applicant of why the exceptions for compensation found in Article 1, Section 18 (b) (adoption or enforcement of historically and commonly recognized nuisance laws) and (c) (implementation of a requirement of federal law and regulation of selling pornography, performing nude dancing, selling of alcoholic beverages or other controlled substances, or operating of casino or gaming parlors) of the Constitution of Oregon do not apply.

k. Whether the claim is alleged to arise on account of (1) the adoption of a regulation, (2) the enforcement of a regulation, or (3) the application of a regulation, and the date on which the claim is alleged to have arisen by reason of such event.

l. A statement explaining how the regulation restricts the use of the property upon which the restriction is imposed and why the regulation has the effect of reducing the value of the property.

m. A statement describing any affirmative obligation imposed on the owner which are part of the reduction in fair market value compensable under Section 18, Article I, as amended by Measure 7, with a statement and explanation of the acts required in order to accomplish such obligation, an itemization of such costs and receipts verifying such costs.

n. A statement of the effect which a release of the applicable regulation would have on the potential development of the property, including the extent of development that would be permitted if the identified regulation were released from the property.

o. A copy of all reports, plans, site plans and other documents submitted to the city for any previous applications for permit approvals pertaining to the property.

p. A copy of any site plan and drawings related to the current or proposed use of the property in a readable/legible eight and one half by eleven inch format.

q. A statement of the relief sought by the applicant.

r. Any additional information which would aid in the determination of the validity and value of the claim, or any decision to release the restriction.

3. The applicant may request an extension for filing a complete application or a continuance of review of a complete application. A request for extension or continuance shall be deemed a waiver of the ninety-day deadline contained in Section 18, Article 1, of the Oregon Constitution and this ordinance for the period of the extension or continuance. (Ord. 700 §1, 2000)

17.01.170.050 Process of review of application for compensation. 1. The city manager shall assess any application for compensation and make a recommendation to the city council on the disposition of the application. The city council shall issue a final decision on an application within ninety days from the date of completeness of the application.

2. Before the city manager may make a recommendation on a request for compensation, the city manager shall provide notice of the application for compensation in accordance with the provisions of this section.

3. Any person may present written comments to the city manager that address the application for compensation. The comments must be received by the city manager within fourteen calendar days from the date on the notice.

4. The city manager shall hold a public hearing on the application for compensation if requested by the applicant in the application, or if requested by another person entitled to notice under subsection 6 of this section provided that person makes the request within seven days from the date on the notice. If the applicant requests a hearing, the notice under subsections 6 and 7 of this section shall provide information on the date, time and location of the hearing. If a hearing is requested by other persons entitled to notice, a new notice shall be issued to the remaining persons entitled to notice giving the date, time and location of the hearing.

5. After the hearing, the city manager shall make a recommendation to the city council based on all of the information presented. The recommendation to the city council may include establishing any relevant conditions for compensation, should compensation be recommended.

6. Notice of the application for compensation shall be by mailed notice provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within three hundred feet of the property which is the subject of the notice. Additional mailed notice shall be sent to the Oregon Department of Land Conservation and Development and such other persons as the city shall designate by council resolution.

7. The notice required by subsection 6 of this section shall:

a. Explain the nature of the application and the compensation sought and the regulation that allegedly causes compensation to be due;

b. Set forth the street address or other geographical reference to the subject property;

c. State the date written comments are due or, if a hearing has been requested, the date, time and location of the hearing;

d. Include the name of a city representative to contact and the telephone number where additional information may be obtained;

e. State that a copy of the application and all documents submitted by the applicant are available for inspection at no cost and that copies will be provided at reasonable cost; and

f. Include a general explanation of the requirements for submission of written comments or, if a hearing is to be held, the requirements for submission of testimony and evidence and the procedure for conduct of hearings.

8. The city manager may, in the city manager's discretion, retain the services of an appraiser to appraise the property and to evaluate the application for compensation for the purposes of determining whether or not the applicable regulation has had the effect of reducing the fair market value of the property and for other purposes relevant to the application.

9. If a hearing is conducted:

a. All documents or evidence to be relied upon by the applicant shall be submitted to the city manager as a part of the application. Persons other than the applicant may submit documents or evidence at the hearing.

b. Any staff report used at the hearing shall be available at least seven days prior to the hearing.

c. When the city manager or city council reopens a record to admit new evidence or testimony, any person may provide additional evidence or testimony which relate to such new evidence or testimony.

10. The failure of a person entitled to notice to receive such notice as provided in this section shall not invalidate the proceedings. The notice

provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

11. Within ten days from the conclusion of the hearing, if one is requested, the city manager shall submit a written recommendation to the city council as to whether compensation should be paid, the amount of compensation to be paid, and whether application of one or more regulations should be waived as to the property for which compensation was sought.

A copy of the city manager's recommendation and the date, time, and place of the city council meeting at which the recommendation will be considered shall be sent, via first class mail, not less than seven days before the city council meeting, to the applicant and to each party who provided written comments and/or participated in the city manager's hearing, provided the party provided a mailing address to the city manager as part of the review or hearing process.

12. Review of the recommendation by the city council shall be on the record of the city manager's review or hearing and all documents or evidence relied on before the city council shall have been submitted as part of the city manager's review or hearing. The city council shall allow written and/or oral arguments based on the record of the city manager's review or hearing to be made by the applicant and any party entitled to receive notice of the city council review.

13. The burden of proof of any material fact or element of the case shall be upon the applicant for all matters required to be shown to demonstrate that the property owner is entitled to compensation, and shall be upon the city to show that the applicable regulation is exempt from the obligation for compensation.

14. The city council may, upon determining that any claim is valid, pay to the owner such just compensation as the owner is by law entitled to receive, or may waive the restriction. The city council shall, by majority vote of those present and voting, determine whether compensation shall be granted, the amount of any compensation, whether any exceptions to the requirement for compensation apply or whether application of the regulation to the property should be waived. Not less than seven days after the city council meeting, a copy of the city council decision shall be sent, via first class mail, to the applicant and to each party who participated in the city manager or city council review process, provided the party has provided a mailing address to the city. (Ord. 700 §1, 2000)

17.01.170.060 Conditions of approval, revocation of decision and transfer of approval rights. 1. The city council may establish any relevant conditions of approval of compensation, should compensation be granted. Any city payment of compensation to an owner under this section shall be conditional on the owner's signing an agreement that, if an appellate court interprets or invalidates Oregon Constitution Article I, Section 18, subsections (a) through (h), in the same or another case, in a manner such that the applying owner was not entitled to compensation in relation to the subject regulation, then the owner will repay the compensation received by the owner to the city.

2. Failure to comply with any condition for compensation is grounds for revocation of the approval of the application for compensation and for recovering any compensation paid.

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

4. Unless otherwise stated in the city's decision, any claim approved under this chapter runs with the property and is transferred with ownership of the property. Any conditions, time limits or other restrictions imposed with a

claim approval will bind all subsequent owners of the property for which the claim was granted.

5. If the city council grants a waiver as a means to avoid having to compensate, or as a means to limit compensation to, an owner or owners under Oregon Constitution Article I, Section 18, subsections (a) through (h), and if, based on an appellate court interpretation or invalidation of Oregon Constitution Article I, Section 18, subsections (a) through (h), in the same or another case, the applying owner was not entitled to compensation in relation to the regulation from which the waiver was granted, then the waiver shall be deemed to have been invalid and ineffective as of and after the date of the city council's order granting the waiver. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the City being required to compensate the owner under Oregon Constitution Article I, Section 18, subsections (a) through (f).

6. If the city council has granted a waiver and the owner nevertheless files a court action seeking compensation, and if a final court decision determines that the extent of the waiver was not sufficient to avoid the owner's being entitled to compensation, then the extent of waiver granted by the city shall be deemed to be the extent of waiver necessary to avoid the owner's being entitled to compensation, effective as of the date of the city council's decision.

7. Any variance granted under this chapter automatically shall terminate on the occurrence of an event following which any owner or future owner of the private real property that is the subject of the waiver will not be entitled to compensation under Oregon Constitution Article I, Section 18, subsections (a) through (h) in relation to the regulation from which the variance was granted. (Ord. 700, §1, 2000)

17.01.170.070 Ex parte contacts, conflict of interest and bias. The following rules govern any challenges to the city manager's or city councilor's participation in review/recommendation or hearing of applications for compensation:

1. Any factual information obtained by the city manager or a city councilor outside of information provided by city staff and outside of the context of formal written comments or hearing will be deemed an ex parte contact. Prior to the close of the record, the city manager or city councilor 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 contacts between city staff and the city manager or city councilor.

2. Whenever the city manager or a city councilor, or any member of their immediate family or household, has a financial interest in the outcome of a particular compensation matter, the city manager or city councilor must declare the interest and shall not participate in the deliberation or decision on that matter. (Ord. 700 §1, 2000)

17.01.170.080 Availability of funds to pay claims. Compensation can only be paid based on the availability and lawful appropriation of funds for such purpose. (Ord. 700 §1, 2000)

17.01.170.090 Severability. If any phrase, clause, or part of this ordinance is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and parts shall remain in full force and effect. (Ord. 700 §1, 2000)

Chapter 17.22

AMENDMENTS TO THE TITLE, COMPREHENSIVE PLAN, AND MAPS

Sections:

- 17.22.010 Purpose.
- 17.22.020 Legislative amendments.
- 17.22.030 Quasi-judicial amendments.
- 17.22.060 Record of amendments.

17.22.010 Purpose. The purpose of this chapter is to set forth the standards and purposes governing legislative and quasi-judicial amendments to this title, the acknowledged comprehensive plan, and the related maps. (Ord. 634 §1 Exh. A (part), 1995)

17.22.020 Legislative amendments. Legislative amendments shall be in accordance with the procedures and standards set forth in Chapter 17.160. A legislative application may be approved or denied. (Ord. 634 §1 Exh. A (part), 1995)

17.22.030 Quasi-judicial amendments. Quasi-judicial amendments shall be in accordance with the procedures set forth in Chapter 17.162 and the following:

A. The commission shall make a recommendation to the Council to approve, approve with conditions or deny an application for a quasi-judicial comprehensive plan map amendment or zone changes based on the following:

1. The applicable comprehensive plan policies and map designation;
2. The change will not adversely affect the health, safety and welfare of the community;
3. The applicable standards of this title or other applicable implementing ordinances; and
4. Evidence of change in the neighborhood or community or a mistake or inconsistency with the comprehensive plan or zoning map as it relates to the subject property.

B. The council shall decide the applications on the record.

C. A quasi-judicial application may be approved, approved with conditions or denied. (Ord. 634 §1 Exh. A (part), 1995)

17.22.060 Record of amendments. The city recorder shall maintain a record of amendments to the text and maps of this title and the comprehensive plan in a format convenient for the use of the public and in accordance with Chapter 17.40. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.24

ENFORCEMENT

Sections:

- 17.24.020 Violation of title prohibited.
- 17.24.030 Penalty.
- 17.24.040 Complaints regarding violations.
- 17.24.060 Abatement of violations.

17.24.020 Violation of title prohibited. A. Land and structures may be divided, used or developed by construction, reconstruction, alteration, occupancy, use or otherwise, only as this title permits.

B. The requirements of this title apply to the owner of the property and to the person undertaking the development or the use of the development and to any successor in interest.

C. If a provision of this title is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section as well as the firm or corporation itself. (Ord. 634 §1 Exh. A (part), 1995)

17.24.030 Penalty. A. A violation of this title may result in a fine of up to two hundred fifty dollars per day. Each day that the violation is committed or permitted to continue shall constitute a separate infraction.

B. Each violation of a separate provision of this title shall constitute a separate infraction.

C. A finding of a violation of this title shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of additional remedies available to the city.

17.24.040 Complaints regarding violations. A. Whenever a violation of this title is alleged to have occurred, any person may file a signed, written complaint.

B. Such complaints, stating fully the causes and basis thereof, shall be filed with the planner, who shall properly record such complaints, investigate and take action thereon as provided by this title.

C. If consent to enter the property for the purpose of investigating a written complaint cannot be obtained, the planner shall have recourse to every other remedy provided by law to secure entry. (Ord. 634 §1 Exh. A (part), 1995)

17.24.060 Abatement of violations. A. Any development or use which occurs contrary to the provisions of this title or contrary to any permit or approval issued or granted under this title is unlawful, and may be abated as a nuisance. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.26

DEFINITIONS

Sections:

17.26.010 Meaning of words generally.

17.26.020 Meaning of common words.

17.26.030 Meaning of specific words and terms.

17.26.010 Meaning of words generally. All of the terms used in this title have their commonly accepted, dictionary meaning unless they are specifically defined in this chapter or definition appears in the Oregon Revised Statute, or the context in which they are used clearly indicates to the contrary. (Ord. 634 §1 Exh. A (part), 1995)

17.26.020 Meaning of common words. A. All words used in the present tense include the future tense.

B. All words used in the plural include the singular, and all words used in the singular include the plural unless the context clearly indicates to the contrary.

- C. All words used in the masculine gender include the feminine gender.
- D. The word "shall" is mandatory and the word "may" is permissive.

E. The words "building" includes the word "structure."

F. The phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

G. The words "land" and "property" are used interchangeably unless the context clearly indicates to the contrary. (Ord. 634 §1 Exh. A (part), 1995)

17.26.030 Meaning of specific words and terms. (Also see Chapters 17.84, 17.88, 17.94 and Chapter 17.114). As used in this title:

"Abut/abutting" and "adjacent/adjoining or contiguous lots" means two or more lots joined by a common boundary line or point.

"Accept" means to receive as complete and in compliance with all submittal requirements.

"Access" means the place, means or way by which pedestrians, bicycles and vehicles enter or leave property. A private access is an access not in public ownership or control by means of deed, dedication or easement.

"Accessory building" means a detached subordinate building, the use of which is clearly incidental to that of the existing principal building and is located on the same lot with the principal building.

"Accessory use" means a use customarily incidental, appropriate and subordinate to the existing principal use and located on the same lot.

"Addition" means a modification to an existing building or structure which increases the site coverage or building volume.

"Administrative decision" means a decision by the planner.

"Adult bookstore" means an establishment having at least ten percent of its merchandise, items, books, magazines, other publications, films or videotapes for sale, rent or viewing on the premises that are distinguished or characterized by their emphasis on matters depicting the sexual activities or anatomical areas.

"Adult motion picture theater" means an establishment used for the presentation of motion pictures or videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting sexual activities or anatomical areas.

"Alley" means a minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

"Alteration" means a change in construction, use or occupancy. When the term is applied to a change in construction, it is intended to apply to any change, addition

or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one classification to another or from one division to another per the Uniform Building Code.

Alteration, Structural. "Structural alteration" means any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

"Amendment" means a change in the wording, context or substance of this title or the comprehensive plan, or a change in the boundaries of a zone on the zoning map or the boundaries of a designation on the comprehensive plan map.

"Animal hospital" means any building or portion thereof designed for the care, observation or treatment of animals.

"Appeal" means a request that a final decision by the initial hearing authority be considered by a higher authority.

"Approval authority" means either the planner, the planning commission, or the council, depending on the context in which the term is used.

"Auto wrecker" means any person who wrecks, dismantles, permanently disassembles or substantially alters the form of any motor vehicle.

"Auto wrecking yard" means any land, building or structure, used for the wrecking or storing in the open of such motor vehicles or the parts thereof, or sale of used automobile parts, or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof and are not being restored to operation. Two or more dismantled, obsolete, inoperable motor vehicles on one lot, or the parts thereof, shall constitute a wrecking yard.

"Automobile service station" means any premises used for supplying gasoline, oil, minor accessories and service, excluding body and fender repairs, for automobiles at retail direct to the customer.

"Automobile and truck sales area" means an open area, other than a street, used for the display, sale of, or rental of new or used motor vehicles or trailers and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed, sold or rented on the premises.

"Basement" means a portion of a building which has less than one-half of its height measured from finished floor to finished ceiling above the average grade of the

adjoining ground and not deemed a story unless the ceiling is six feet or more above the grade.

"Bed and breakfast" means an owner-occupied single-family residential dwelling where meals and lodging are offered for compensation that contains no more than two rental units and limits guest stays to five days or less.

"Building" means any structure greater than one hundred twenty square feet or ten feet in height, having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, foods or materials of any kind or nature.

"Building envelope" means that portion of a lot or development site exclusive of the areas required for front, side and rear yards and other required open spaces and which is available for siting and constructing a building or buildings.

"Building official" means a person duly authorized by a municipality and the State of Oregon with responsibility for the administration and enforcement of the State Building Code in the municipality, or his duly authorized representative. (Oregon Revised Statutes 456.806(1)).

"Building type" means:

A. 1. Nonresidential: buildings not designed for use as human living quarters.

a. Detached. A single main building, freestanding and structurally separated from other buildings.

b. Attached. Two or more main buildings placed side by side so that some structural parts are touching one another, located on a lot or development site or portion thereof.

2. Residential.

a. Single-family detached dwelling: any detached structure designed for occupancy by one family. One dwelling unit is a freestanding and structurally separated from any other dwelling unit or buildings, located on a lot or planned unit development site.

b. Duplex or two-family dwelling: any building designed to be occupied by two families living independently of each other, and containing two kitchens. The two dwelling units placed so that some structural parts are in common and are located on a single lot or planned unit development site.

c. Multifamily dwelling: any building or portion thereof designed or used for occupancy by three or more families living independently of each other and containing independent kitchens. A structure containing at least three dwelling units in any vertical or horizontal arrangement placed so that some structural parts are in common and are located on a single lot or planned unit development site.

d. Accessory dwelling unit: a secondary unit that does not contain a kitchen and is used in conjunction with an existing single-family detached dwelling.

"Caretaker dwelling" means a single-family detached dwelling for housing the caretaker of an approved industrial development and located on the same lot as the approved industrial development.

"Carport" means a covered shelter for an automobile open on two or more sides. A carport shall not attach two single-family dwellings or create duplexes, or multifamily dwellings except when the carport contains common building structural parts designed to be an integral part of a continuous structure.

"Church" means a structure or set of structures, the principal purpose which is for persons to regularly assemble for worship, and which has legally been recognized by the state of Oregon.

"City" means the city of Scappoose.

"City recorder" means the person designated by the city manager to perform the duties of city recorder for the city of Scappoose, Oregon.

"Commercial use" means establishments or places engaged in the distribution and sale or rental of goods and the provision of services.

"Commission" means the planning commission of Scappoose, Oregon.

"Complete" means every item is included without omissions or deficiencies.

"Complex" means a structure or group of structures developed on one lot of record.

"Comprehensive plan" means the coordinated land use map and policy statement of the governing body of the city as acknowledged by the state of Oregon.

"Conditional use" means a use which may be approved, denied or approved with conditions by the approval authority following a public hearing, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

Contiguous. See "Abut/abutting."

"Council" means the city council of Scappoose, Oregon.

"Court" means an open unoccupied space other than a yard, on the same lot with a building and enclosed on two or more sides of such building.

"Day care facility" means any facility that provides day care to children, including a child day care center, group day care home, home of a family day care provider, including those known under a descriptive name such as nursery school, preschool or kindergarten.

"Day care home" means a day care facility located in a single-family residence that is certified by the state of

Oregon to care for no more than twelve children at any given time.

"Declarant" means the person who files a declaration as required under ORS 92.075 to subdivide or partition property.

"Declaration" means the instrument described in ORS 92.075 by which the subdivision or partition plat was created.

"Demolish" means to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a designated structure or resource.

"Density" means the intensity of residential land uses, usually stated as the number of housing units per acre.

"Density transfer acre/acreage" means potentially hazardous or resource areas within which development may occur or from which density may be transferred to buildable portions of the site, only after it has been demonstrated by the applicant that the development can occur in compliance with criteria established by the comprehensive plan and implementation ordinances.

"Development" means any activity that makes a material change in the use or appearance of a structure or land, including partitions and subdivisions as provided in Oregon Revised Statutes 92 and 227.215.

"Development permit" refers to any document or building permit that authorizes an applicant to commence construction or development activities.

"Development site" means the lot or combination of lots upon which development occurs.

"Drainageway" means undeveloped land inundated during a twenty-five-year storm with a peak flow of at least five cubic feet per second and conveyed, at least in part, by identifiable channels that either drain to the Scappoose floodway directly or after flowing through other drainageways, channels, creeks or floodplain.

"Dwelling unit" means one or more rooms containing permanent provisions for living, sleeping, eating, cooking and sanitation and designed for occupancy by one family.

"Easement" means a grant or the right to use designated land for specific purposes.

"Erect" means the act of placing or affixing a component of a structure upon the ground or upon another such component.

"Family" means an individual or two or more persons related by genetics, adoption or marriage or a group of five or fewer persons (excluding domestic employees) who are not related by genetics, adoption or marriage.

Fence, Sight-Obscuring. "Sight-obscuring fence" means a barrier consisting of wood, masonry, evergreen shrubbery or similar materials, which obstructs vision.

"Final action," "final decision" or "final order" means a determination reduced to writing, signed and filed by the appropriate approval authority that includes a statement of the facts determined to be relevant by the approval authority as the basis for making its decision.

"Flag lot" means a lot located behind a frontage lot, plus a strip out to the street for an access drive. A flag lot results from the subdivision or partitioning of a lot or parcel which is more than twice as large as the minimum allowed in the underlying zone, but has insufficient frontage to allow two dwellings to front along a public street.

"Floor area" means the gross horizontal area, under roof, of all floors of a building, measured from the exterior walls, excluding vents, shafts, courts and space devoted to off-street parking. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

"Frontage" means that portion of a development site which abuts a public street.

Garage, Private. "Private garage" means a building or portion of a building in which motor vehicles used by the tenant of the structure on the premises are stored or kept.

Garage, Public. "Public garage" means a structure that provides facilities for the repair of motor vehicles including body and fender repair, painting, rebuilding, reconditioning, upholstering, or other vehicle maintenance or repair.

"Grade" means the average of the finished ground level at the center of all walls of the building. In case the walls are parallel to and within five feet of a sidewalk, the above ground level should be measured at the sidewalk.

"Gross acres" means all of the land area included in the legal description of the property.

"Habitable room" means an undivided enclosed space within a dwelling designed for sleeping, living, cooking or dining purposes excluding attics, cellars, corridors, hallway, laundries, serving or storage pantries, bathrooms, closets or similar places.

"Height" means the vertical distance of a structure measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the structure. Projections such as chimneys, spires, domes, elevator shaft housings, towers excluding TV dish receivers, aerials, flag poles and other similar objects not used for human occupancy, are not subject to the building height limitations of this title if located outside the airport overlay zone.

"Home occupation" means a lawful activity, secondary to the use of the dwelling for living purposes, that is

conducted entirely within a dwelling or accessory building and that includes no outside display of merchandise with any sale of merchandise clearly incidental to the use of the building for dwelling purposes.

"Homeowners association" means an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner of a planned development or other described land area is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

"Implementing ordinance" means an ordinance adopted to carry out the comprehensive plan, including, but not limited, to the provisions of this title.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles or motor vehicle parts, iron, steel or other old or scrap ferrous or nonferrous materials, metal or nonmetal materials.

"Junk yard" means the use of more than two hundred square feet of the area of any lot for the dismantling or for the storage or keeping of junk.

"Industrial use" means any use of land, structure or natural resources involving the manufacturing, processing or assembly of semifinished or finished products from raw materials, or similar treatment or packaging of previously prepared materials.

"Land form alteration" means any manmade change to improved or unimproved real estate, including but not limited to, the addition of buildings or other structures, mining, quarrying, dredging, filling, grading, earthwork construction, stockpiling of rock, sand, dirt or gravel or other earth material, paving, excavation or drilling operations.

"Legislative" means a land use decision that applies to a large number of individuals or properties.

"Loading space" means an off-street space or berth on the same lot or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle for loading or unloading persons, merchandise or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

"Lot" means a unit of land that is created by a subdivision or partition of land and is owned by or under the lawful control and in the lawful possession of one ownership.

"Lot area" means the total horizontal area within the property lines of a lot exclusive of public and private

roads, and access easements to other property or the private driveway ("pole") area of a flag lot.

Lot, Corner. "Corner lot" means a lot situated at the intersection of two streets where the interior angle of such intersection does not exceed one hundred thirty-five degrees.

"Lot coverage" means the percent of a lot area covered by the vertical and horizontal projection of any structures or buildings.

"Lot depth" means the distance from the midpoint of the front property line to the midpoint of the rear property line.

Lot, Interior. "Interior lot" means a lot other than a corner lot and having frontage on only one street.

"Lot line" means the property line bounding a lot.

Lot Line, Front. "Front lot line" means in the case of an interior lot, a property line which abuts the street; in the case of a corner, through lot or flag lot, the shortest of the two property lines which abut the street or access way or from which primary vehicular access to the property is gained.

Lot Line, Rear. "Rear lot line" means the property line most distant from and generally opposite the front property line.

Lot Line, Side. "Side lot line" means any lot boundary not a front or rear property line.

"Lot of record" means a lawfully created lot which existed prior to the effective date of this title.

Lot, Through. "Through lot" means an interior lot of record which has both frontages on two streets.

"Lot width" means the average horizontal distance between the side property lines measured at the building line.

"Major impact utility" means services and utilities which have a substantial visual impact on an area. Typical uses are electrical and gas distribution substations, radio microwave, telephone transmitters and cable TV receivers and transmitters.

"Major partition" means a partition of land which creates three lots or less within one calendar year and includes the creation of a road or street.

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

"Manufactured home park" means any place where four or more manufactured homes are located on a lot tract, or

parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

"Modular home" means a structure constructed in accordance with federal requirements for modular construction including compliance with Uniform Building Codes.

"Mining and/or quarrying" means premises from which any rock, sand, gravel, topsoil, clay, mud, peat or mineral is removed or excavated for sale, as an industrial or commercial operation, and exclusive of excavating and grading for street and roads and the process of grading a lot preparatory to the construction of a building for which a permit has been issued by a public agency.

"Minor impact utility" means services which have minimal off-site visual impact.

"Minor partition" means a partition of land which creates three lots or less within one calendar year, and does not include the creation of a road or street.

"Net acres" means the total amount of land which can be used for development.

"Nonconforming use or structure" means a lawfully existing structure or use, or one in the process of being constructed at the time of the adopting of this title, which does not conform to the requirements of this title and the zoning district in which it is located.

"Owner" means any person, agent, firm or corporation having a legal or equitable interest in the property.

Owner, Contract Purchaser Deemed. A person or persons purchasing property under contract, for the purposes of this title shall be deemed to be the owner or owners of the property covered by the contract. The planning commission or the council may require satisfactory evidence of such contract of purchase.

"Parcel" means a unit of land that is created by partitioning land.

"Park" means any land set apart and devoted to the purposes of pleasure, recreation, ornament, light and air for the general public.

"Parking space" means an area within a private or public parking area, building or structure meeting the specific dimensional requirements and designated as parking for one vehicle.

"Partitioning land" means division of an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year.

"Permitted use" means a use which is allowed outright, but is subject to all applicable provisions of this title.

"Person" means an individual, corporation, governmental agency, official advisory committee of the city, business trust, estate, trust, partnership, association, two or more people having a joint or common interest or any other legal entity.

"Planner" means the person designated by the city manager as responsible for planning activities for the city.

"Plat" means a final map, or other writing containing all the descriptions, locations, specifications, dedications, and provisions concerning a subdivision or partition.

"Principal building" means the primary structure on a lot built for the support, shelter, protection or enclosure of any persons, animals or property of any kind, excluding an accessory building. The principal building shall conform to the stated uses within the zoning district and all other restrictions of this title.

"Property line" means the division line between two units of land.

"Property line adjustment" means the relocation of a common property line between two abutting properties which does not result in the creation of an additional lot, or the creation of a substandard lot.

"Public support facilities" means services which are necessary to support uses allowed outright in the underlying zone and involves only minor structures such as power lines and poles, phone booths, fire hydrants, as well as bus stops, benches and mailboxes which are necessary to support principal development.

"Public works director" means the person designated by the city manager to have the authority for review and approval of all public works planning and construction.

"Quasi-judicial" means action which involves the application of adopted policy to a specific parcel or action.

"Receipt" means an acknowledgement of submittal.

"Recreational vehicle" means a vacation trailer or other unit with or without motor power which is designed for human occupancy and to be used temporarily for recreational purposes and is identified as a recreational vehicle by the manufacturer.

"Recreational vehicle park" means any property developed for the purpose of parking or storing recreational vehicles on a temporary or transient bases, wherein two or more of such units are placed within five hundred feet of each other on any lot, tract or parcel of land under one ownership.

"Remodel" means an internal or external modification to an existing building or structure which does not increase the site coverage.

"Residence" means a structure designed for occupancy as living quarters for one or more persons.

"Residential care home" means any home licensed by or under the authority of the Department of Human Resources as defined in ORS 443.400, a residential home registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.505 to 443.825 which provides residential care for five or fewer individuals who need not be related, excluding required staff persons.

"Residential care facility" means any facility licensed or registered by or under the authority of the Department of Human Resources as defined in ORS 443.400 to 443.460 or licensed by the Children's Services Division which provides residential care for six to fifteen individuals who need not be related, excluding required staff persons.

"Residential use" means a structure used for human habitation by one or more persons.

"Reserve strip" means a strip of property usually one foot in width overlaying a dedicated street which is reserved to the city for control of access until such time as additional right-of-way is accepted by the city for continuation or widening of the street.

"Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use. The usage of the term "right-of-way for land division purposes" means that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

"Road" or "street" means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

"Scappoose-based nonprofit organization" means an organization which has nonprofit status as defined by the state of Oregon which raises funds which are used by the organization and is located in the city.

"Screening" means a method of visually shielding or obscuring one abutting or nearby structure or use from

another by fencing, walls, berms or densely planted vegetation.

"Setback" means the minimum allowable distance between the property line and any structural projection. Structural projections include fireplaces, porches, balconies, decks, canopies and similar features. Cornices, eaves, belt courses, sills or similar architectural features may extend or project into a required yard not more than thirty-six inches.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper

surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused underfloor space is more than six feet above grade as defined in this section for more than fifty percent of the total perimeter or is more than twelve feet above grade as defined in this section at any point, such basement or unused underfloor space shall be considered as a story.

Story, First. "First story" means the lowest story in a building which qualifies as a story, as defined in this section, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined in this section, for more than fifty percent of the total perimeter, or more than eight feet below grade, as defined in this section, at any point.

Story, Half. "Half story" means a story under a gable or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the finished floor level directly above a basement or unused underfloor space is not more than six feet above grade, as defined in this section, for more than fifty percent of the total perimeter or is not more than twelve feet above grade as defined in this section, at any point, such basement or unused underfloor space shall be considered as a half story.

"Street" or "road" means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

Street, Private. "Private street" means an access way which is under private ownership and provides access to no more than three dwelling units or primary structures.

"Structure" means that which is built or constructed, erected, or air-inflated, permanent or temporary; 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. Among other things, structure includes buildings, walls, signs, billboards and poster panels.

"Subdivide land" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

"Subdivision" means either an act of subdividing land or an area or a tract of land subdivided as defined in this section.

"Substantial" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the replacement value of the structure.

"Use" means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

"Visual clearance area" means a triangular area on a lot at the intersection of two streets or a street and an alley, driveway, other point of vehicular access or railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance of twenty feet. The third side of the triangle is a line across the corner of the lot adjoining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The visual clearance area shall not contain visual obstructions.

"Visual obstruction" means any fence, hedge, tree, shrub, device, wall or structure between the elevations of four feet and eight feet above the adjacent curb height or above the elevation of gutter line of street edge where there is

no curb, as determined by the planner, and so located at a street, drive or alley intersection as to limit the visibility of pedestrians or persons in motor vehicles on said streets, drives or alleys.

"Wetlands" means land often called swamp, marsh or bog, that exhibits all of the following characteristics:

1. The land supports hydrophytic vegetation. This occurs when more than fifty percent of the dominant species from all strata are classified as wetland species;

2. The land has hydric soils. Hydric soils are soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile;

3. The land has wetland hydrology. Wetland hydrology is permanent or periodic inundation, or soil saturation for a significant period (at least one week) during the growing season.

"Yard" means an open space unobstructed from the ground upward except as otherwise provided in this title.

1. Yard, Corner Side. "Corner side yard" means a yard extending from the front yard to the rear lot line on the street side of a corner lot.

2. Yard, Front. "Front yard" means a yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the foundation of a building.

3. Yard, Back. "Back yard" means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the foundation of a building.

4. Yard, Side. "Side yard" means a yard between the front and rear yards measured horizontally and at right angles to the side lot lines from the side lot line to the nearest point of the foundation of a building.

"Zoning district" means an area of land within the Scappoose city limits designated for specific types of permitted developments subject to the development requirements of that district. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.40

ADMINISTRATION

Sections:

17.40.010 Classification of zones.

17.40.020 Zoning map.

17.40.030 Determination of zoning boundaries.

17.40.010 Classification of zones. All areas within the corporate limits of the city are divided into zoning districts. The use of each tract and ownership of land within the corporate limits is limited to those uses permitted by the zoning classification applicable to each such tract as designated on the city of Scappoose zoning map. Exact densities are subject to area, height, density and setback provisions of each district. (Ord. 634 §1 Exh. A (part), 1995)

17.40.020 Zoning map. A. The boundaries of each of the zoning districts and the zoning classification and use of each tract in each of said zoning districts is prescribed to coincide with the identifying zone classifications shown on the map entitled "Zoning Map City of Scappoose" dated with the effective date of this title and referred to as the "zoning map" and the map by this reference is made a part of this title. A certified print of the adopted

zoning map or map amendments shall be maintained at City Hall as long as the title remains in effect.

B. Each lot, tract and parcel of land or portion thereof within the zone boundaries as designated and marked on the zoning map, is classified, zoned and limited to the uses as hereinafter specified and defined for the applicable zone classification.

C. Amendments to the city zoning map may be made in accordance with the provisions of Chapters 17.160 and 17.162.

D. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting documents, on file at City Hall. An up-to-date copy of the city zoning map revised so that it accurately portrays changes of zone boundaries shall be available for public inspection. (Ord. 634 §1 Exh. A (part), 1995)

17.40.030 Determination of zoning boundaries. A. Where there is uncertainty, contradiction or conflict regarding the intended location of district boundary lines, the boundary lines shall be determined by the planner in accordance with the following standards:

1. Boundaries indicated as approximately following the center lines of streets, highways, railroad tracks or alleys shall be construed to follow such center lines;

2. Boundaries indicated as approximately following platted property lines shall be construed as following such property lines;

3. Boundaries indicated as approximately following city limits shall be construed as following city limits;

4. Boundaries indicated as approximately following river, stream and/or drainage channels shall be construed as following river, stream and/or drainage channels.

B. Whenever any street is lawfully vacated and the lands within its boundaries are attached to and become a part of lands adjoining such street, the lands formerly within the vacated street shall automatically be subject to the same zoning district designation that is applicable to lands to which the street attaches. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.43

UNLISTED USE--AUTHORIZATION OF SIMILAR USE

Sections:

- 17.43.010 Purpose.
- 17.43.020 Unlisted use defined.
- 17.43.030 Administration.
- 17.43.040 Limitation.
- 17.43.050 Approval criteria.

17.43.010 Purpose. It is not possible to contemplate all of the various uses which will be compatible within a zoning district and omissions will occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zoning district had they been contemplated and whether such unlisted uses are compatible with the listed uses. (Ord. 634 §1 Exh. A (part), 1995)

17.43.020 Unlisted use defined. An "unlisted use" is a use which is not listed as either an outright or a conditional use in any zoning district. (Ord. 634 §1 Exh. A (part), 1995)

17.43.030 Administration. The planner shall maintain a list by zoning district of unlisted uses approved by the planning commission. The list shall have the same effect as an amendment to the use provisions of the applicable zone. A copy of the updated list shall be given to each planning commissioner at the next regularly scheduled planning commission meeting following their determination that the unlisted use is a similar use and shall be available to the public on request. Annually, all copies of this title shall be updated to include the unlisted uses approved as similar uses during the previous year. (Ord. 634 §1 Exh. A (part), 1995)

17.43.040 Limitation. The planning commission shall not authorize an unlisted use in a zoning district if the use is specifically listed in another zone as either a permitted use or a conditional use. (Ord. 634 §1 Exh. A (part), 1995)

17.43.050 Approval criteria. A. The planning commission shall approve or deny an unlisted use application based on findings that:

A. The use is consistent with the intent and purpose of the applicable zoning district;

B. The use is similar to and of the same general type as the uses listed in the zoning district;

C. The use has similar intensity, density, off-site impacts and impacts on community facilities as the uses listed in the zoning district. (Ord. 634 §1 Exh. A (part), 1995)

17.43.050

Chapter 17.44 R-1 LOW DENSITY RESIDENTIAL

Sections:

17.44.010 Purpose.

17.44.030 Permitted uses.

17.44.040 Conditional uses.

17.44.050 Dimensional requirements.

17.44.010 Purpose. The R-1 zone is intended to provide minimum standards for residential use in areas of low population densities. (Ord. 634 §1 Exh. A (part), 1995)

17.44.030 Permitted uses. In the R-1 zone, only the following uses and their accessory uses are permitted outright:

A. Day care home;

B. Home occupation (Type I) subject to Chapter 17.142;

C. Manufactured homes on individual lots subject to Section 17.94.030;

D. Public support facilities;

E. Residential care home;

F. Single-family detached residential dwelling;

G. Sewage pump station;

H. Public park and recreation areas, provided that all building setbacks shall be a minimum of thirty feet from any property line. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.44.040 Conditional uses. The following uses and their accessory uses may be permitted in the R-1 zone when authorized by the planning commission in

accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Church, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- B. Electric power substation;
- C. Day care facility;
- D. Home occupation (Type II) subject to Chapter 17.142;
- E. Minor impact utilities;
- F. Public safety facilities;
- G. Schools, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- H. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93;
- I. Accessory Dwelling Units (ADU's) subject to the provisions of Chapter 17.92. (Ord. 714 Exh. A (part), 2002; Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.44.050 Dimensional requirements. A. The minimum lot area shall not be less than seven thousand five hundred square feet.

B. The minimum lot width shall not be less than fifty feet, except the minimum lot width at front property line on the arc of an approved full cul-de-sac shall not be less than thirty feet.

C. The minimum setback requirements are as follows:

- 1. The front yard setback shall be a minimum of twenty feet;
- 2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;
- 3. Side yard setbacks shall total a minimum of fifteen feet with any street side setback no less than ten feet and one internal side setback not less than ten feet;

4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for an accessory building shall be five feet;

D. No building in an R-1 zoning district shall exceed thirty-five feet in height. Maximum height for accessory buildings shall be twenty-two feet;

E. One principal building per lot.

F. Buildings shall not occupy more than thirty-five percent of the lot area;

G. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.50 R-4 MODERATE DENSITY RESIDENTIAL

Sections:

- 17.50.010 Purpose.
- 17.50.030 Permitted uses.
- 17.50.040 Conditional uses.
- 17.50.050 Dimensional requirements.

17.50.010 Purpose. The R-4 zone is intended to provide minimum standards for residential use in areas of moderate population concentrations. (Ord. 634 §1 Exh. A (part), 1995)

17.50.030 Permitted uses. In the R-4 zone, only the following uses and their accessory uses are permitted outright:

- A. Churches previously zoned RC-4;
- B. Day care home;

- C. Duplex;
- D. Home occupation (Type I) subject to Chapter 17.142;
- E. Manufactured homes on individual lots subject to Section 17.94.030;
- F. Multifamily up to four units per lot;
- G. Public support facilities;
- H. Residential care home;
- I. Single-family detached residential dwelling units;
- J. Sewage pump station;
- K. Public park and recreation areas, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- L. Accessory Dwelling Units (ADU's) subject to the provisions of Chapter 17.92;
- M. A single-family dwelling having a common wall with one other single-family dwelling, provided:
 - 1. Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot;
 - 2. The two dwellings shall have a common wall at the "zero" lot line;
 - 3. Both lots combined shall comprise not less than seven thousand square feet in area. There is no minimum lot area for the individual lots created;
 - 4. Lot area and setback requirements will apply to the combined dwelling units as one structure and the combined lots as one lot;
 - 5. Each dwelling unit must have independent services that include but are not limited to sewer, water, and electricity;
 - 6. The common wall shall be a rated fire wall and shall be of a kind of construction that will insure fire protection as per the Oregon Structural Specialty Code;
 - 7. Single-family residential common wall structures shall be required to provide a sound barrier at the common wall that has a sound transmission class rating of not less than fifty as per the Oregon Structural Specialty Code. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection by the Building Official if it meets the code requirements and is supported by proof of meeting sound emission controls as specified;
 - 8. Existing duplexes will be allowed to be converted to single-family residential common wall if they can be altered to meet the provisions of this title. (Ord. 716 §1(part), 2002; Ord. 714 Exh. A (part), 2002; Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.50.040 Conditional uses. The following uses and their accessory uses may be permitted in the R-4 zone when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Bed and breakfast facilities, provided that no other such facilities exist within four hundred feet;
- B. Church, provided that all building setbacks shall be a minimum of thirty feet from any property line;
- C. Electric power substation;
- D. Day care facility;
- E. Home occupation (Type II) subject to Chapter 17.142;
- F. Library services;
- G. Minor impact utilities;
- H. Professional office building under four thousand square feet;
- I. Public safety facilities;
- J. Retail sales establishments under two thousand five hundred square feet;
- K. Residential care facility;

L. Schools, provided that all building setbacks shall be a minimum of thirty feet from any property line;

M. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.50.050 Dimensional requirements. A. The minimum lot area shall be:
1. Six thousand square feet for single-family unit; and
2. Seven thousand square feet for the first two attached units plus an additional two thousand five hundred square feet for each additional dwelling unit for triplex or fourplex.

B. The minimum lot width shall be fifty feet, except the minimum lot width front property line on the arc of an approved full cul-de-sac shall not be less than thirty feet.

C. The minimum setback requirements are as follows:
1. The front yard setback shall be a minimum of fifteen feet;
2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;

3. Side yard setbacks shall total a minimum of fifteen feet with any street side setback no less than ten feet. Internal lots shall have one side setback no less than ten feet;

4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for an accessory building shall be five feet.

D. No building in an R-4 zoning district shall exceed thirty-five feet in height. Maximum height for accessory buildings shall be twenty-two feet.

E. One principal building per lot.

F. Buildings shall not occupy more than forty percent of the lot area.

G. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)
Chapter 17.54 MH MANUFACTURED HOUSING

Sections:

- 17.54.010 Purpose.
- 17.54.030 Permitted uses.
- 17.54.040 Conditional uses.
- 17.54.050 Dimensional requirements.

17.54.010 Purpose. The purpose of the MH zoning district is to provide for moderate density residential home sites and high-density manufactured home residential units in manufactured home parks. (Ord. 634 §1 Exh. A (part), 1995)

17.54.030 Permitted uses. In the MH zone, only the following uses and their accessory uses are permitted outright:

- A. Day care home;
- B. Duplex;
- C. Home occupation (Type I) subject to Chapter 17.142;
- D. Manufactured homes on individual lots subject to Section 17.94.030;
- E. Manufactured home parks subject to Section 17.94.050;
- F. Multifamily up to four units per lot;
- G. Public support facilities;
- H. Residential care home;
- I. Single-family detached residential dwelling units;
- J. Sewage pump station;
- K. Public park and recreation areas, provided that all building setbacks shall be a minimum of thirty feet from any property line;

L. Accessory Dwelling Units (ADU's) subject to the provisions of Chapter 17.92;

M. A single-family dwelling having a common wall with one other single-family dwelling, provided:

1. Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot;

2. The two dwellings shall have a common wall at the "zero" lot line;

3. Both lots combined shall comprise not less than seven thousand five hundred square feet in area. There is no minimum lot area for the individual lots created;

4. Lot area and setback requirements will apply to the combined dwelling units as one structure and the combined lots as one lot;

5. Each dwelling unit must have independent services that include but are not limited to sewer, water, and electricity;

6. The common wall shall be a rated fire wall and shall be of a kind of construction that will insure fire protection as per the Oregon Structural Specialty Code;

7. Single-family residential common wall structures shall be required to provide a sound barrier at the common wall that has a sound transmission class rating of not less than fifty as per the Oregon Structural Specialty Code. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection by the Building Official if it meets the code requirements and is supported by proof of meeting sound emission controls as specified;

8. Existing duplexes will be allowed to be converted to single-family residential common wall if they can be altered to meet the provisions of this title. (Ord. 716 §1(part), 2002; Ord. 714 Exh. A (part), 2002; Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.54.040 Conditional uses. The following uses and their accessory uses may be permitted in the MH zone when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

A. Bed and breakfast facilities, provided that no other such facilities exist within four hundred feet;

B. Church, provided that all building setbacks shall be a minimum of thirty feet from any property line;

C. Electrical power substation;

D. Day care facility;

E. Home occupation (Type II) subject to Chapter 17.142;

F. Library services;

G. Minor impact utilities;

H. Professional office building under four thousand square feet;

I. Public safety facilities;

J. Retail sales establishments under two thousand five hundred square feet;

K. Residential care facility;

L. Schools, provided that all building setbacks shall be a minimum of thirty feet from any property line;

M. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.54.050 Dimensional requirements. A. The minimum lot area shall be:

1. Six thousand square feet for each single-family unit; and

2. Seven thousand five hundred square feet for the first two attached units plus an additional two thousand five hundred square feet for each additional dwelling unit for triplex or fourplex.

B. The minimum lot width shall be fifty feet, except the minimum lot width front property line on the arc of an approved full cul-de-sac shall not be less than thirty feet.

C. The minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of fifteen feet;

2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;

3. Side yard setbacks shall total a minimum of fifteen feet with any street side setback no less than ten feet. Internal lots shall have one side setback not less than ten feet;

4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for an accessory building shall be five feet.

D. No building in an MH zoning district shall exceed thirty-five feet in height. Maximum height for accessory buildings shall be twenty-two feet.

E. One principal building per lot (except for manufactured home parks).

F. Buildings shall not occupy more than forty percent of the lot area (except for manufactured home parks).

G. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.56 A-1 HIGH DENSITY RESIDENTIAL

Sections:

17.56.010 Purpose.

17.56.030 Permitted uses.

17.56.040 Conditional uses.

17.56.050 Dimensional requirements.

17.56.010 Purpose. The purpose of the A-1 zoning district is to provide for multiple-family residential units in moderate to high density residential developments. (Ord. 634 §1 Exh. A (part), 1995)

17.56.030 Permitted uses. In the A-1 zone, only the following uses and their accessory uses are permitted outright:

A. Day care home or facility;

B. Duplex;

C. Home occupation (Type I) subject to Chapter 17.142;

D. Manufactured home parks, subject to Section 17.94.050;

E. Multifamily dwelling units limited to a maximum of eight attached units per building with a minimum fifteen foot separation between buildings containing dwelling units;

F. Public support service;

G. Residential care facility;

H. Sewage pump station;

I. Public park and recreation areas, provided that all building setbacks shall be a minimum of thirty feet from any property line;

J. Accessory Dwelling Units (ADU's) subject to the provisions of Chapter 17.92;

K. A single-family dwelling having a common wall with one other single-family dwelling(s), provided:

1. Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot;
2. The two dwellings shall have a common wall at the "zero" lot line;
3. Each lot shall comprise not less than two thousand five hundred square feet each in area;
4. Lot area and setback requirements will apply to the combined dwelling units as one structure and the combined lots as one lot;
5. Each dwelling unit must have independent services that include but are not limited to sewer, water, and electricity;
6. The common wall shall be a rated firewall and shall be of a kind of construction that will insure fire protection as per the Oregon Structural Specialty Code;
7. Single-family residential common wall structures shall be required to provide a sound barrier at the common wall that has a sound transmission class rating of not less than fifty as per the Oregon Structural Specialty Code. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection by the Building Official if it meets the code requirements and is supported by proof of meeting sound emission controls as specified;
8. Existing duplexes will be allowed to be converted to single-family residential common wall if they can be altered to meet the provisions of this title. (Ord. 716 §1(part), 2002; Ord. 714 Exh. A (part), 2002; Ord. 705 §1(part) 2001; Ord. 634 §1 Exh. A (part), 1995)

17.56.040 Conditional uses. The following uses and their accessory uses may be permitted in the A-1 zone when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Bed and breakfast facilities, provided that no other such facilities exist with four hundred feet;
- B. Church, provided that all building setbacks shall be a minimum of twenty feet from any property line;
- C. Electrical power substations;
- D. Home occupation (Type II) subject to Chapter 17.142;
- E. Library services;
- F. Minor impact utilities.
- G. Professional office building;
- H. Public safety facilities;
- I. Retail sales establishments under four thousand square feet;
- J. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.56.050 Dimensional requirements. A. The minimum lot area shall five thousand square feet for the first two units and two thousand square feet for each additional unit. The minimum lot area for all other uses shall be five thousand square feet.

- B. The minimum lot width is fifty feet.
- C. The minimum setback requirements are as follows:
 1. The front yard setback shall be a minimum of fifteen feet;
 2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;
 3. Side yard setbacks shall total a minimum of fifteen feet with any street side setback no less than ten feet and internal side setback no less than five feet;
 4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for accessory buildings shall be five feet.

D. No building in an A-1 zoning district shall exceed thirty-five feet in height. Maximum height for accessory buildings shall be twenty-two feet.

E. The maximum lot coverage shall be eighty percent including all buildings and impervious surfaces; and the minimum landscape requirement shall be twenty percent.

F. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.62 C GENERAL COMMERCIAL

Sections:

- 17.62.010 Purpose.
- 17.62.030 Permitted uses.
- 17.62.040 Conditional uses.
- 17.62.050 Dimensional requirements--Commercial use.
- 17.62.060 Dimensional requirements--Residential use.

17.62.010 Purpose. The purpose of the general commercial zone is to provide for a concentrated, central commercial, office and major retail goods and services area with opportunities for employment and business and professional services in close proximity to residential services and located adjacent to arterial or collector streets. (Ord. 634 §1 Exh. A (part), 1995)

17.62.030 Permitted uses. In the general commercial zone, activities shall be conducted within an enclosed structure or building and are subject to Chapter 17.120, Site Development Review. Only the following uses and their accessory uses are permitted outright:

- A. Church;
- B. Community recreation facilities;
- C. Convenience sales;
- D. Cultural exhibits and library services;
- E. Day care facility;
- F. Dwelling units located on the second floor of the commercial structure;
- G. Eating and drinking establishments;
- H. Equipment rentals, general;
- I. Financial, insurance and real estate services;
- J. Food and beverage retail sales;
- K. General retail sales;
- L. Home occupation (Type I) subject to Chapter 17.142, Home Occupations;
- M. Hospitals;
- N. Hotel/motel;
- O. Lodge, fraternal and civic assembly;
- P. Medical and dental services;
- Q. Multifamily dwelling units per A-1 requirements, when located at least two hundred feet from Highway 30;
- R. Parking facilities;
- S. Passenger terminals;
- T. Personal services, general;
- U. Postal services;
- V. Professional and administrative services;
- W. Public agency administrative services;
- X. Public safety and support facilities;
- Y. Repair services for household and personal items, excluding automotive;

Z. Residential care facility when located at least two hundred feet from Highway 30;

AA. Sales grooming and veterinary of small animals;

BB. Vehicle fuel sales, retail;

CC. Any permitted use on a temporary basis subject to Scappoose Municipal Code 17.128, Temporary Commercial and Industrial Uses;

DD. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 698 §1, 2000; Ord. 634 §1 Exh. A (part), 1995)

17.62.040 Conditional uses. The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 17.130, Conditional Use, other relevant sections of this title and any conditions imposed by the planning commission:

A. Home occupations (Type II) subject to Chapter 17.142, Home Occupations;

B. Major impact utilities, provided that a ten-foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property;

C. Ministorage with or without a caretaker dwelling;

D. Wholesaling, storage and distribution, provided that all activities are conducted entirely within a building or structure;

E. Outside storage subject to buffering and screening according to Chapter 17.100, Landscaping, Screening and Fencing;

F. Outside dining facilities;

G. Commercial amusement facilities such as bowling alleys or movie theaters other than adult motion picture theaters;

H. Wireless communication facilities, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.62.050 Dimensional recruitments--Commercial use. A. Minimum lot area shall be ten thousand square feet. The minimum lot width shall be fifty feet.

B. The minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of ten feet and shall be landscaped per Section 17.100.090;

2. On corner lots, the minimum setback for the side facing the street shall be twenty feet;

3. No internal side or rear yard setback shall be required, except thirty feet shall be required where abutting a residential zoning district and the planning commission may reduce that required yard setback by fifty percent pursuant to Chapter 17.100, Landscaping, Screening and Fencing.

C. No building shall exceed fifty feet in height. Within one hundred feet of a residential zone, no building shall exceed thirty-five feet in height.

D. The maximum lot coverage shall be ninety percent including all buildings and impervious surfaces.

E. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)

17.62.060 Dimensional requirements--Residential uses. Dimensional requirements for residential uses in the commercial district are the same as the A-1 zone, Chapter 17.56, A-1 High Density Residential. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.68 EC EXPANDED COMMERCIAL

Sections:

- 17.68.010 Purpose.
- 17.68.030 Permitted uses.
- 17.68.040 Conditional uses.
- 17.68.050 Dimensional requirements.
- 17.68.060 Dimensional requirements--Residential districts.

17.68.010 Purpose. The purpose of the EC zone is to provide areas:

- A. For combining light manufacturing, office, retail sales, and complementary related commercial uses;
- B. For combining uses which have no off-site impacts in terms of noise, odor, glare, lights, vibration, smoke, dust or other types of off-site impacts;
- C. For combining parking, landscaping and other design features which physically and visually link structures and uses within one development;
- D. Which utilize a basic street and utility pattern which will permit flexibility in the size of development sites and provide internal circulation which connect to adjoining sites; and
- E. Which provide for a circulation system that provides direct access to arterials or collectors that will not channel traffic through residential areas. (Ord. 634 §1 Exh. A (part), 1995)

17.68.030 Permitted uses. In the expanded commercial zone, except as specifically stated, activities shall be conducted within an enclosed building or structure and are subject to site development review, Chapter 17.120, Site Development Review. Only the following uses and their accessory uses are permitted outright:

- A. Agricultural sales;
- B. Automotive and equipment:
 - 1. Repairs provided that a five-foot landscaped perimeter setback surround all outdoor parking and storage areas and all repair work is performed indoors;
 - 2. Sales/rental/storage of farm equipment, automobiles, recreational vehicles, boats or light equipment, provided that a five-foot landscaped perimeter setback surrounds all outdoor parking and all storage areas are buffered and screened in accordance with Chapter 17.100, Landscaping, Screening and Fencing.
- C. Building materials sales and storage;
- D. Building maintenance services;
- E. Business equipment sales and services;
- F. Church;
- G. Commercial amusement facilities including bowling alleys, video arcades, and movie theaters other than adult motion picture theaters;
- H. Communication services;
- I. Construction sales and services;
- J. Day care facility;
- K. Dwelling units located on the second floor of a commercial structure;
- L. Eating and drinking establishments;
- M. Equipment rental and sales;
- N. Financial, insurance and real estate services;
- O. General retail sales;
- P. Home occupation (Type I) subject to Chapter 17.142, Home Occupations;
- Q. Laundry services;
- R. Medical and dental services;
- S. Mini-storage with or without caretaker dwelling;
- T. Multifamily dwelling units per A-1 requirements when located at least two hundred feet from Highway 30;

U. Packaging and production of finished products from previously prepared materials;

V. Parking facilities;

W. Participation sports and recreation, indoor;

X. Postal services;

Y. Professional and administrative offices;

Z. Public safety services;

AA. Public support facilities;

BB. Recreational vehicle parks subject to Chapter 17.94, Manufactured Home Regulations;

CC. Research services;

DD. Residential care facilities when located at least two hundred feet from Highway 30;

EE. Small animal sales and services including veterinary;

FF. Vehicle fuel sales, retail;

GG. Wholesale, storage and distribution;

HH. Hotel/motel;

II. Any permitted use on a temporary basis subject to Scappoose Municipal Code 17.128, Temporary Commercial and Industrial Uses;

JJ. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 698 §2, 2000; Ord. 662 §1, 1998; Ord. 636 §1(part), 1966; Ord. 634 §1 Exh. A (part), 1995).

17.68.040 Conditional uses. The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 17.130, Conditional Use, other relevant sections of this title and any conditions imposed by the planning commission:

A. Adult bookstore, entertainment or motion picture theaters, provided no sales area or activity is ever visible from the building exterior, all building setbacks shall be a minimum of thirty-five feet from any property line and shall be screen and buffered in accordance with Section 17.100.090. In addition, location shall be at least one thousand five hundred feet, measured in a straight line, from any of the following:

1. Residential district,

2. Public or private nursery, preschool, elementary, junior, middle or high school,

3. Day care facility, nursery school, convalescent home, home for the aged, resident care facility or hospital,

4. Public library,

5. Community recreation,

6. Church;

B. Automotive and equipment body repairs conducted wholly within an enclosed structure;

C. Fleet storage with no buildings or structures, provided that a five-foot screened and buffered perimeter setback surrounds all outdoor parking and storage areas;

D. Home occupations (Type II) subject to Chapter 17.142, Home Occupations;

E. Outside storage subject to buffering and screening in accordance with Chapter 17.100, Landscaping, Screening and Fencing;

F. Outside dining facilities;

G. Major impact utilities provided that a ten-foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property;

H. Radio towers and transmitters;

I. Wireless communication facilities, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.68.050 Dimensional requirements. A. The minimum lot size shall be ten thousand square feet with a minimum lot width of one hundred feet.

B. Unless otherwise specified, the minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of ten feet and shall be landscaped per Section 17.100.090;

2. On corner lots and through lots the minimum setback for the side facing the street shall be twenty feet;

3. No side or rear yard setback shall be required except thirty feet shall be required where abutting a residential zoning district and the planning commission may reduce the required yard setback by fifty percent pursuant to Chapter 17.100, Landscaping, Screening and Fencing.

C. No building shall exceed fifty feet in height. Within one hundred feet of a residential zone, no building shall exceed thirty-five feet in height.

D. The maximum lot coverage shall be ninety percent including all buildings and impervious surfaces.

E. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)

17.68.060 Dimensional requirements--Residential districts. Dimensional requirements for residential uses in the expanded commercial district are the same as the A-1 zone, Chapter 17.56, A-1 High Density Residential. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.70 LI LIGHT INDUSTRIAL

Sections:

- 17.70.010 Purpose.
- 17.70.030 Permitted uses.
- 17.70.040 Conditional uses.
- 17.70.050 Dimensional requirements.

17.70.010 Purpose. The purpose of the light industrial zone is to:

A. Provide appropriate locations for industrial use including light manufacturing and related activities with few, if any, nuisance characteristics such as noise, glare and smoke;

B. To permit manufacturing, processing, assembling, packaging or treatment of produce or products from previously prepared materials; and

C. To provide a wide variety of sites with good highway or rail access. (Ord. 634 §1 Exh. A (part), 1995)

17.70.030 Permitted uses. In the light industrial zone, activities are subject to site development review, Chapter 17.120, Site Development Review. Only the following uses and their accessory uses are permitted outright:

A. Agricultural sales and services including uses customarily carried on outdoors except slaughterhouses, tanneries or rendering plants;

B. Animal sales and service including auctions, kennels and veterinary;

C. Automobile and equipment sales, service and repair (new and used);

D. Bakeries;

E. Building maintenance services;

F. Building materials sales and service;

G. Caretaker dwelling;

- H. Construction sales and services;
- I. Home occupation (Type I) subject to Chapter 17.142, Home Occupations;
- J. Laundry services;
- K. Research services;
- L. Retail facilities on sites greater than one hundred thousand square feet;
- M. Manufacturing of finished products;
- N. Manufacturing of components for use in finished products;
- O. Packaging of previously processed materials;
- P. Participation sports and recreation: indoor and outdoors;
- Q. Processing and packing of food products;
- R. Processing of previously processed materials for use in components or finished products;
- S. Processing of materials for use in any construction or building trades;
- T. Public support facilities;
- U. Parking facilities;
- V. Public safety services;
- W. Transportation terminals and storage yards, provided that a five-foot landscaped perimeter setback surrounds all outdoor parking, all storage areas are buffered and screened in accordance with Chapter 17.100, Landscaping, Screening and Fencing, and all repair work is performed indoors;
- X. Vehicle fuel/convenience sales;
- Y. Wholesale, storage and distribution;
- Z. Any permitted use on a temporary basis subject to Scappoose Municipal Code 17.128, Temporary Commercial and Industrial Uses;
- AA. Wireless communications facilities, not to include antenna support structures, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 698 §3, 2000; Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.70.040 Conditional uses. The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 17.130, Conditional Use, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Eating and drinking establishments;
- B. Commercial amusement facilities including bowling alleys, video arcades, and movie theaters other than adult motion picture theaters;
- C. Home occupations (Type II) subject to Chapter 17.142, Home Occupations;
- D. Recycle stations, provided that a ten-foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property, all operations are conducted entirely within buildings, and all building setbacks shall be a minimum of thirty feet from any property line;
- E. Major impact utilities, provided that a ten-foot perimeter setback containing both externally visible landscaping meeting buffering standards and screening surrounds property;
- F. Wireless communication facilities, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.70.050 Dimensional requirements. A. Unless otherwise specified, the minimum setback requirements are as follows:

- 1. The front yard setback shall be a minimum of twenty feet;
- 2. On corner lots the minimum setback for the side facing the street shall be five feet;

3. On through lots, the front and rear setback shall be a minimum of twenty feet;

4. No additional side or rear yard setback shall be required except fifty feet shall be required where abutting a residential zoning district and the planning commission may reduce this required yard setback by fifty percent pursuant to Chapter 17.100, Landscaping, Screening and Fencing.

B. No building shall exceed fifty feet in height. Within one hundred feet of a residential zone, no building shall exceed thirty-five feet in height.

C. All outside storage areas require buffering and screening as defined in Chapter 17.100, Landscaping, Screening and Fencing.

D. Additional requirements shall include any applicable section of this title. (Ord. 663 §7, 1998: Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.72 HI HEAVY INDUSTRIAL

Sections:

- 17.72.010 Purpose.
- 17.72.030 Permitted uses.
- 17.72.040 Conditional uses.
- 17.72.050 Dimensional requirements.

17.72.010 Purpose. The purpose of the heavy industrial zone is to provide appropriate locations for intensive manufacturing activities including fabrication, processing or assembling of semifinished or finished products from raw materials, outdoor storage areas, and the storage of heavy equipment. (Ord. 634 §1 Exh. A (part), 1995)

17.72.030 Permitted uses. In the heavy industrial zone, activities are subject to site development review, Chapter 17.120. Only the following uses and their accessory uses are permitted outright:

- A. Agricultural sales and services;
- B. Animal sales and service including auctions, kennels and veterinary;
- C. Automobile and equipment cleaning, sales, service and repair;
- D. Caretaker dwelling;
- E. Construction sales and services;
- F. Fuel sales;
- G. Laundry services;
- H. Manufacturing of products:
 - 1. Processing of raw materials for use in components or finished products,
 - 2. Processing of raw materials for use in any construction or building trades,
 - 3. Manufacturing of components for use in finished products;
- I. Parking facilities;
- J. Packaging and processing;
- K. Public support facilities;
- L. Public safety services;
- M. Recycling or transfer stations;
- N. Research services;
- O. Wrecking and junk yards and scrap operations provided that a ten-foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property;
- P. Utilities, major or minor impact;
- Q. Wholesale, storage and distribution;

R. Wireless communications facilities, not to include antenna support structures and their associated facilities, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.72.040 Conditional uses. The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Explosive storage in accordance with ORS 480;
- B. Eating and drinking establishments;
- C. Retail commercial facilities on sites greater than one hundred thousand square feet;
- D. Wireless communication facilities, subject to the provisions of Chapter 17.93. (Ord. 705 §1(part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.72.050 Dimensional requirements. A. The minimum lot width shall be fifty feet.

B. Unless otherwise specified, the minimum setback requirements are as follows:

- 1. The front yard setback shall be a minimum of thirty-five feet;
- 2. On corner lots and through lots the minimum setback for the side facing the street shall be twenty feet;
- 3. No side or rear yard setback shall be required except fifty feet shall be required where abutting a residential zoning district.

C. No building shall exceed fifty feet in height. Within one hundred feet of a residential zone, no building shall exceed thirty-five feet in height.

D. All uses require a ten-foot landscaped perimeter setback meeting the standards for both buffering and screening as defined in Chapter 17.100.

E. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)
Chapter 17.76 SM SURFACE MINING

Sections:

- 17.76.010 Purpose.
- 17.76.030 Permitted uses.
- 17.76.040 Conditional uses.
- 17.76.050 Dimensional requirements.

17.76.010 Purpose. The purpose of the surface mine zone to address the unique situation of aggregate mining operations. The resources which they seek to extract are under the soil, and development above the soil can prohibit the economic recovery of this valuable resource. The intent of this zone is to allow the mining of this resource while mitigating the impact of the operation of surrounding properties and assuring that these sites will be reclaimed when the aggregate or other resource has been exhausted. (Ord. 634 §1 Exh. A (part), 1995)

17.76.030 Permitted uses. In the surface mine zone, activities are subject to site development review, Chapter 17.120. Only the following uses and their accessory uses are permitted outright:

- A. Public support facilities;
- B. Major impact services and utilities;
- C. Parking facilities;
- D. Public safety services;
- E. Equipment cleaning, sales, storage and repair;
- F. Construction sales and services;

- G. Research services;
- H. Manufacturing of products:
 - 1. From raw materials,
 - 2. From previously prepared materials;
- I. Wholesale, storage and distribution;
- J. Aggregate mining operations subject to the following conditions:
 - 1. Obtain all necessary air and water contaminate discharge permits from the appropriate city, county, state or federal agency,
 - 2. Obtain any required noise permit from the appropriate city, county, state or federal agency,
 - 3. Receive planning commission approval of a reclamation plan. The planner shall request comments from the appropriate agencies including the State Department of Geology and mining and Columbia County,
 - 4. Comply with applicable Columbia County and state of Oregon mining regulations,
 - 5. Each proposed aggregate mining operation shall be reviewed by the planning commission on a case-by-case basis to determine that the operation will mitigate any adverse impact on adjoining properties. The planning commission may attach conditions to hours of operation, setbacks, screening, unloading, construction and maintenance, landscaping, protection of fish and wildlife habitats or any aspect of the operation deemed necessary to mitigate adverse impacts;
- K. Caretaker dwelling. (Ord. 634 §1 Exh. A (part), 1995)

17.76.040 Conditional uses. The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Eating and drinking establishments;
- B. Explosive storage in accordance with ORS 480;
- C. Fuel sales;
- D. Heliports;
- E. Log decking and storage;
- F. Retail commercial facilities on sites greater than one hundred thousand square feet. (Ord. 634 §1 Exh. A (part), 1995)

17.76.050 Dimensional requirements. A. The minimum lot area shall be ten thousand square feet.

- B. The minimum lot width shall be fifty feet.
- C. Unless otherwise specified, the minimum setback requirements are as follows:
 - 1. The front yard setback shall be a minimum of thirty-five feet;
 - 2. On corner lots and through lots the minimum setback for the side facing the street shall be twenty feet;
 - 3. No side or rear yard setback shall be required except fifty feet shall be required where abutting a residential zoning district.
 - D. All uses require a ten-foot landscaped perimeter setback meeting the standards for both buffering and screening as defined in Chapter 17.100.
 - E. No building shall exceed fifty feet in height. Within one hundred feet of a residential zone, no building shall exceed thirty-five feet in height.
 - F. Additional requirements shall include any applicable section of this title. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.77 PL-I PUBLIC LANDS--INSTITUTIONAL

Sections:

- 17.77.010 Purpose.
- 17.77.030 Permitted uses.
- 17.77.040 Dimensional requirements.

17.77.010 Purpose. The PL-I zone is intended to provide for the review and approval of the location and development of special uses that by reason of their public convenience, necessity and unusual character or effect on the neighborhood, may not be suitable for listing within other sections of this code. The PL-I zone is intended to provide a mechanism for the establishment of public facilities necessary to meet the demand for various types of public learning institutions, places of public assembly, and for public institutional facilities. (Ord. 715 §1(part), 2002)

17.77.030 Permitted uses. In the PL-I zone, only the following uses and their accessory uses are permitted outright, and are subject to the provisions of Chapter 17.120, Site Development Review:

- A. Public schools, and their accompanying sports facilities and fields;
- B. Government office buildings, centers, stations, training facilities and similar structures utilized for local, state, regional and federal agencies including, but not limited to, a city hall, courthouse, library, post office, police station, fire station, ranger station, correctional facility, armory, museum or health facility;
- C. Facilities for public assembly including, but not limited to, public plaza or square;
- D. Public cemetery, crematory, mausoleum or mortuary;
- E. Other uses found similar by the planning services manager. (Ord. 715 §1(part), 2002)

17.77.040 Dimensional requirements. Due to the unique nature of the public uses allowed within the PL-I zone, no designated minimum lot size, minimum yard requirements, minimum building height or maximum lot coverage exist. Minimum lot size, building height, yard requirements, and lot coverage shall be determined on a case by case basis by the planning commission as provided for within the provisions of Chapter 17.120. (Ord. 715 §1(part), 2002)

Chapter 17.78 PL-U PUBLIC LANDS--UTILITY

Sections:

- 17.78.010 Purpose.
- 17.78.030 Permitted uses.
- 17.78.040 Dimensional requirements.

17.78.010 Purpose. The PL-U zone is intended to provide for the review and approval of the location and development of special uses that by reason of their public convenience, necessity and unusual character or effect on the neighborhood, may not be suitable for listing within other sections of this code. The PL-U zone is intended to provide a mechanism for the establishment of public utility facilities. (Ord. 715 §1(part), 2002)

17.78.030 Permitted uses. In the PL-U zone, only the following uses and their accessory uses are permitted outright, and are subject to the provisions of Chapter 17.120, Site Development Review:

A. Public water system structures, including, but not limited to treatment plants, storage reservoirs, pump stations or other major facilities associated with the supply or distribution of water;

B. Public sewerage or drainage way system structures, including, but not limited to, pump stations, or sewage or storm water treatment plants;

C. Public work shops, road shops, yards, and equipment and material storage yards;

D. Other uses found similar by the planning services manager. (Ord. 715 §1(part), 2002)

17.78.040 Dimensional requirements. Due to the unique nature of the public uses allowed within the PL-U zone, no designated minimum lot size, minimum yard requirements, minimum building height or maximum lot coverage exist. Minimum lot size, lot coverage, building height and yard requirements shall be determined on a case by case basis by the planning commission as provided for within the provisions of Chapter 17.120. (Ord. 715 §1(part), 2002)

Chapter 17.79 PL-R PUBLIC LANDS--RECREATION

Sections:

17.79.010 Purpose.

17.79.030 Permitted uses.

17.79.040 Dimensional requirements.

17.79.010 Purpose. The PL-R zone is intended to provide for the review and approval of the location and development of special uses that by reason of their public convenience, necessity and unusual character or effect on the neighborhood, may not be suitable for listing within other sections of this code. The PL-R zone is intended to provide a mechanism for the establishment of various types of public recreation facilities. (Ord. 715 §1(part), 2002)

17.79.030 Permitted uses. In the PL-R zone, only the following uses and their accessory uses are permitted outright, and are subject to the provisions of Chapter 17.120, Site Development Review:

A. Public recreation facilities including neighborhood and community parks, park plazas, multi-use trails with associated trail access points and trailheads, campgrounds and other similar uses;

B. Other uses found similar by the planning services manager. (Ord. 715 §1(part), 2002)

17.79.040 Dimensional requirements. Due to the unique nature of the public uses allowed within the PL-R zone, no designated minimum lot size, minimum yard requirements, minimum building height or maximum lot coverage exist. Minimum lot size, lot coverage, building height and yard requirements shall be determined on a case by case basis by the planning commission as provided for within the provisions of Chapter 17.120. (Ord. 715 §1(part), 2002)

Chapter 17.80 DOWNTOWN OVERLAY

Sections:

17.80.010 Purpose.

17.80.020 Applicability.

17.80.030 Uses.

- 17.80.040 Dimensional requirements.
- 17.80.050 Parking.
- 17.80.060 Lighting.
- 17.80.070 Service areas.
- 17.80.080 Building height and architectural character.
- 17.80.090 Signs.
- 17.80.100 Landscaping.

17.80.010 Purpose. The purpose of the downtown overlay is to encourage the preservation, improvement and renewal of the existing business district of the city maintaining a center of commercial and civic activity for the community; encourage pedestrian traffic; require design features that reduce conflicts with vehicular traffic flow; and improve the general appearance, safety and convenience of the downtown area by requiring greater attention to the design of buildings, parking, landscaping, lighting and traffic circulation. (Ord. 682 §4(part), 1999)

17.80.020 Applicability. A. The downtown overlay shall apply to properties on the west side of Highway 30 beginning on the north side of E.M. Watts at Otto Petersen School and extending north to Scappoose Vernonia Highway and including all properties with frontages on either side of West First Street or Highway 30 and to properties on the east side of Highway 30 beginning at East Columbia Avenue and extending north to Williams Street and including all properties with frontages on NE First Street. East Columbia Avenue or Highway 30 as shown on Exhibit A, attached to the ordinance codified in this chapter.

B. Expansion or Redevelopment: For developed properties which do not meet the requirements of these design standards, any building or site alterations on the property must be brought into compliance based on the following:

1. The proposed improvements exceed thirty percent of the assessed value as determined by the Columbia County assessor's office for all improvements on the property, including sites with multiple tenants; or

2. The proposed alterations exceed ten thousand dollars.

C. Limit of Required Improvements. The requirements of the downtown overlay must be met for the entire property. However, required improvements costing over ten percent of the value of the proposed alterations do not have to be made. It is the responsibility of the applicant to document that the value of the required improvements exceed ten percent of the value of the building and/or site alterations.

D. Required Standards. Alterations to developed properties shall be brought into compliance with these design standards. When all required improvements are not being made, they shall be provided in the following order of priority:

1. Parking perimeter screening and planting;
2. Design of parking;
3. Architectural character, where applicable;
4. Lighting.

E. Section 17.80.080, Building Height and Architectural Character shall apply only to structures adjacent to East Columbia Avenue and/or Highway 30.

F. Except as specifically exempted in this chapter, all other requirements of Title 17 shall apply within the downtown overlay. (Ord. 682 §4(part), 1999)

17.80.030 Uses. Permitted and conditional uses shall be as defined in underlying base zone. (Ord. 682 §4(part), 1999)

17.80.040 Dimensional requirements. A. Base zoning dimensions are not applicable within the downtown overlay.

- B. No minimum lot area shall be required.
- C. Minimum lot width shall be fifty feet.
- D. No minimum setbacks shall be required for buildings, except as necessary to maintain visual clearance areas at unsignalized intersections.
- E. No building shall exceed thirty-five feet in height. (Ord. 682 §4(part), 1999)

17.80.050 Parking. A. Parking shall be in accordance with Chapter 17.106, Off-Street Parking and Loading Requirements, except as specifically defined in this section. Illustrations of desirable parking design shall be as shown in the Scappoose downtown plan.

B. Location of Parking.

1. Off-street surface parking lots shall be located to the side or rear of buildings. Parking at midblock or behind buildings is preferred. When parking cannot be located at midblock or behind buildings, perimeter screening and planting shall be required, complying with design standards for parking perimeter screening and planting, subsection D of this section.

2. Off-street surface parking lots shall not be located between a front facade of a building adjacent to a public street, and the public street.

3. New parking lots and garages shall not be located within twenty feet of a street corner.

C. Design of Parking.

1. Off-street surface parking areas shall be designed to be as unobtrusive, and as attractive in appearance, as possible.

2. Angled or perpendicular parking spaces shall provide, where needed, extruded curbs (tire stops) or widened curbs to prevent bumper overhang into landscape areas or walkways.

3. Landscaping around and within surface parking areas shall equal ten percent of the total parking area.

4. Landscaping shall be installed within planting bays, and in any other area where parking stalls, circulation aisles, driveways and pedestrian movements shall not be precluded by the landscaping.

5. Trees shall be used extensively at the perimeter and in the interior of surface parking lots to break up large parking areas and provide shade. One tree which shall provide a canopy of at least three hundred square feet upon maturity shall be provided for each fifty lineal feet of street frontage or fraction thereof.

6. Pedestrian accessways through surface parking lots shall be clearly identifiable through use of different paving materials, pavement markings, grade separation, or landscaping, well-lighted, and as short as practicable.

7. Surface parking lot vehicular accessways shall not exceed twenty feet in width, and shall not be located within twenty-five feet of a corner.

8. New parking areas shall be designed to the extent practicable to connect with existing parking areas on adjacent sites to eliminate the necessity of utilizing the street for parallel movements.

D. Parking Perimeter Screening and Planting. When required by subsection (A) (1) of this section, parking areas adjacent to public streets shall provide landscaping which meets one of the following standards:

1. A five-foot-wide planting strip between the right-of-way and the parking area. The planting strip may be pierced by pedestrian-accessible and vehicular accessways. Planting strips shall be planted with an evergreen hedge. Hedges shall be no less than thirty-six inches or more than forty-two inches in height at maturity. Materials shall achieve a balance between low-lying and vertical shrubbery and trees. Hedges and other landscaping shall be planted and maintained to afford adequate sight distance for vehicles exiting the parking lot; or

2. A solid decorative wall or fence thirty-six inches in height parallel to and not nearer than one foot from the right-of-way line. The area between the wall or fence and the street line shall be landscaped. Materials shall achieve a balance between low-lying and vertical shrubbery and trees. The required wall or fence and landscaping shall be designed to allow for access to the site and sidewalk by pedestrians and shall be constructed and maintained to afford adequate sight distance for vehicles exiting the parking lot; or

3. A transparent screen or grille forty-eight inches to seventy-two inches in height parallel to the right-of-way line. A one-foot minimum planting strip shall be located either inside the screen, or between the screen and the right-of-way. The plant strip shall be planted with a hedge or other landscaping. Materials shall achieve a balance between low-lying and vertical shrubbery and trees. The required screen or grill and landscaping shall be designed to allow for access to the site and sidewalk by pedestrians and shall be constructed and maintained to afford adequate sight distance for vehicles exiting the parking lot. (Ord. 682 §4(part), 1999)

17.80.060 Lighting. A. Illustrations of desirable lighting shall be as shown in the Scappoose downtown plan.

B. Pedestrian scale street lighting shall be provided along arterials, major collectors, minor collectors and local streets.

C. Pedestrian scale street lights shall be no taller than twenty feet along arterials, major collectors, minor collectors and local streets.

D. Additional pedestrian-oriented site lighting (i.e., path lighting including step lights, well lights and bollards) is encouraged.

E. Fixture height and lighting levels shall be commensurate with their intended use and function and shall assure compatibility with neighboring land uses. Baffles shall be incorporated to minimize glare and to focus lighting to its intended area.

F. Minimum lighting levels shall be provided for public safety in all urban spaces open to public circulation.

G. No lighting standard shall exceed twenty-five feet in height.

H. A minimum average light level of 1.2 footcandles is required for urban spaces and sidewalks.

I. Maximum lighting levels shall not exceed 3.0 footcandles at intersections or 1.5 footcandles in parking areas.

J. High pressure sodium lamps shall be used for required lighting.

K. Accent lighting on architectural focal points and landscape features is encouraged.

L. Seasonal lighting is encouraged on trees. (Ord. 682 §4(part), 1999)

17.80.070 Service areas. A. Illustrations of desirable service area screening shall be as shown in the Scappoose downtown plan.

B. All on-site service areas, loading zones and outdoor storage areas, waste storage, disposal facilities, transformer and utility vaults and similar activities shall be located in an area not visible from a street or urban space. If this is not possible, then the service area, loading zone or storage area must be fully screened from public view. Prohibited screening includes chain-link fencing with or without slats. Acceptable screening includes a stone, masonry or wood enclosure incorporated into a building wall. (Ord. 682 §4(part), 1999)

17.80.080 Building height and architectural character. A. Section 17.80.080, Building Height and Architectural Character shall apply only to structures adjacent to East Columbia Avenue and/or Highway 30.

B. Illustrations of desirable storefronts, design and architectural character shall be as shown in the Scappoose downtown plan.

C. Height.

1. The facade height of corner buildings shall be one to three stories and not more than thirty-five feet high. Where possible corner buildings shall be the tallest structures in each block.

2. The facade height of buildings in the middle of the block shall be one to two stories and no more than twenty-seven feet high.

3. The minimum facade height for single-story buildings shall be twenty feet. This height shall be measured from the highest grade point of the building frontage from ground to top of cornice or midpoint of roof slope.

4. There shall be no setback between buildings and the right-of-way.

D. Architectural Character.

1. Awnings.

a. Awnings at the ground level of buildings are encouraged.

b. Awnings shall not obscure or distract from significant architectural features and should fit within the window bays (either above the main glass or the transom light).

c. The color of the awning shall be compatible with its attached building.

2. Building Design.

a. The exterior walls of building facades along Columbia Avenue or Highway 30 shall be of suitable durable building materials including the following: stucco, stone, terra-cotta, tile, cedar shakes and shingles, beveled or shiplap or other narrow-course horizontal boards or siding, vertical board and batten siding, articulated architectural concrete masonry units (CMU), or similar materials which are resistant and easy to clean. Prohibited building materials include the following: plain concrete, plain concrete block, corrugated metal, unarticulated board siding (e.g., T1-11 siding, plain plywood, sheet press board) and similar quality, nondurable materials.

3. Building Fronts.

a. Ground floor windows shall be provided on building facades facing Columbia Avenue and Highway 30.

b. Darkly tinted windows and mirrored windows that block two-way visibility are prohibited as ground floor windows.

c. Ground floor building facades along a Columbia Avenue or Highway 30 must contain unobscured windows for at least fifty percent of the wall area and seventy-five percent of the wall length within the first ten feet of wall height. Lower window sills shall not be more than three feet above grade except where interior floor levels prohibit such placement, in which case the lower window sill shall not be more than a maximum of four feet above the finished exterior grade.

d. On the ground floor, buildings shall incorporate large display windows with transom lights above.

e. New buildings whose street frontage is more than forty-five feet wide shall be designed so they convey a sense of division through the use of either pilasters, window and door openings, recessed entries, off-sets or other architectural details and shall break any flat, monolithic facade by including architectural elements such as bay windows, recessed entrances, changes in materials, or other articulation so as to provide pedestrian scale to the ground floor. Other articulation shall include: columns, pilasters or vertical architectural elements which serve to modulate the building facade. (Ord. 682 §4(part), 1999)

17.80.090 Signs. A. Signs shall be in accordance with the requirements of Chapter 17.114, Signs. (Ord. 682 §4(part), 1999)

17.80.100 Landscaping. A. Except as specifically required in Section 17.80.050, no additional landscaping shall be required within the downtown overlay. The requirements of Chapter 17.100, Landscaping, shall not apply within the downtown overlay.

B. Pedestrian scale lighting and hanging floral baskets may be substituted for street trees for frontages on the west side of Highway 30 from the northwest corner of JP West Street north to the southwest corner of Watts Street. Such substitutions shall be in accordance with the standards in Section 17.80.060. The design of the fixture shall be subject to planning commission approval. (Ord. 682 §4(part), 1999)

Chapter 17.81 PLANNED DEVELOPMENT OVERLAY (PD)

Sections:

- 17.81.010 Purpose.
- 17.81.020 Applicability.

- 17.81.030 Permitted uses.
- 17.81.040 Dimensional standards.
- 17.81.050 General requirements.
- 17.81.060 Procedure.
- 17.81.070 Approval criteria.
- 17.81.080 Tentative plan.
- 17.81.090 Final plan.
- 17.81.100 Changes and modifications.
- 17.81.110 Application of development standards--Conflict of planned development standards and zoning district standards.

17.81.010 Purpose. The purpose of this district is to provide more flexibility in the development of land; encourage variety and creativity in the development pattern of the community; conserve natural land features; facilitate aesthetic and efficient use of open space; create public and private open space; encourage the application of new techniques and technology to community development which contribute to superior living or development patterns; use land efficiently in order to reduce the costs of housing, maintenance, street systems and utility networks; promote energy conservation and crime prevention; and relate development to the natural environment and its users.

A planned development shall be considered as an overlay to an existing zone, and the development of said property shall be in accordance with that zone's requirements, except as may be specifically allowed by the planning commission. For purposes of implementing these objectives, two means are available:

A. The property owner or his or her representative may apply for a planned development to overlay an existing zone and shall submit an acceptable plan and satisfactory assurances that it will be carried out in accordance with the procedures set forth in Section 17.81.060; or

B. The property owner of a particular parcel, the planning commission, or the city council may apply for a planned development designation to overlay an existing zone without submitting any development plans; however, no development of any kind may occur until a final plan has been submitted and approved. A planned development overlay initiated by the commission or council shall address itself to the purposes set forth herein.

1. A planned development overlay may be approved under these circumstances for a property that has unique characteristics (for example, having geological, ecological or archeological significance), and the

development of which may have a significant impact upon the surrounding area or the city as a whole due to its scope, potential housing or employment density, and anticipated traffic generation. However, the commission and council shall set forth the reasons for approval and the areas of concern that must be addressed when final plans are submitted. (Ord. 717 §1(part), 2002)

17.81.020 Applicability. A. Commercial, Industrial, and Residential. The planned development process may be applied in any zone to all commercial and industrial uses, and all residential uses for site-constructed housing, subject to requirements of the underlying district, the land division regulations, and sections 17.81.040 and 17.81.050 of this chapter.

B. Manufactured Homes. The planned development process may also be applied to manufactured home subdivisions in the MH and A-1 residential districts, subject to the requirements of the underlying district and this code. (Ord. 717 §1(part), 2002)

17.81.030 Permitted uses. A. For residential districts:

1. Uses permitted in the underlying district;
2. Housing concepts may include, but are not limited to, single-family residences, duplexes, row houses, townhouses, cluster units, multiple-family dwellings or manufactured homes;
3. Related commercial uses as part of the development;
4. Related public lands uses designed to serve the development;
5. Accessory buildings and uses, not to exceed twenty-five percent of the lot area of the principal use.

B. For commercial and industrial districts:

1. Uses permitted in the underlying district;
2. Public lands uses;
3. Other uses approved as part of the general plan;
4. Accessory buildings and uses, not to exceed twenty-five percent of the lot area of the principal use. (Ord. 717 §1(part), 2002)

17.81.040 Dimensional standards. A. Lot Width, Depth, and Frontage Requirements. Minimum lot size, width, depth and frontage requirements for lots in a planned development may be less than the minimums specified in the underlying district if in accordance with the approved general plan and the density standards of this section.

B. Minimum Site Size. A planned development shall be established on a parcel of land that is suitable for the proposed development, and shall not be established on less than four acres of contiguous land, unless the planning commission finds that property of less than four acres is suitable as a planned development by virtue of its unique character, topography or natural features, or by virtue of its qualifying as an isolated problem area as determined by the planning commission. (Ord. 717 §1(part), 2002)

17.81.050 General requirements. A. Compatibility with Neighborhoods.

1. The planned development shall present an organized arrangement of buildings, facilities, open spaces and improvements such as recreation facilities, landscaping and fencing to ensure compatibility with the comprehensive plan and the area in which it is to be located.
2. Peripheral yards of a planned development site shall be at least as deep as those required by the yard regulations of the adjoining district, unless the planning commission finds that equal protection will be accorded through specific features of the approved plan.

B. Open Space.

1. Open space in a planned development means the land area to be used for scenic landscaping, or open recreational purposes within the development. It shall not include street right-of-ways, driveways or open parking areas.

2. Open space shall be provided for the recreational and leisure use of the individuals occupying the planned development, and designed to enhance the present and future value of the development.

3. To the maximum extent possible, natural features of the land shall be preserved and landscaping provided.

4. In order to assure that open space will be permanent, dedication of development rights to the city for other than open space use may be required.

5. Instruments guaranteeing the maintenance of open space shall be reviewed and approved by the planning commission. Documents dedicating development rights and provisions for maintenance of open space shall be approved as to form by the city attorney.

6. The planning commission may require that instruments of conveyance provide that in the event the open space is permitted to deteriorate, or is not maintained in a condition consistent with the approved plan, the city may, at its option, cause such maintenance to be done and assess the costs to the affected property owners.

C. Residential Density.

1. In a residential planned development, the density permitted is the same as that of the underlying district or districts. In a mixed-use planned development, the number of allowable units is based on net residential area. The net residential area for a planned development shall be calculated by taking the total area of the development less streets, commercial, industrial, public lands and other nonresidential uses. Recreational trails and areas, and open space, etc., shall be included in the net residential area. The number of dwelling units permitted in a planned development shall be calculated by dividing the net residential area by the minimum lot size required in the underlying residential district or districts. In a commercial or expanded commercial district, multifamily densities shall be permitted where limited residential use is determined to be appropriate by the planning commission.

2. Greenways, streams and steep topography areas will be counted as contributing to the density only to the extent that it can be shown, through a planning commission review, that a typical development could be accommodated on the site with realistic street configuration, grades and standard lot sizes. The number of dwellings yielded from such a tentative subdivision review process shall be used as a base in determining the overall density for the site.

3. An increase of up to twenty-five percent in the number of dwelling units may be permitted upon a finding by the planning commission that such increased density will contribute to:

a. Satisfaction of the need for additional urban area housing of the type proposed;

b. The provision of housing which is convenient to commercial, employment, and community services and opportunities;

c. The creation of a land use pattern that is complementary to the community and its identity, and to the community design process;

d. The conservation of energy;

e. The efficient use of transportation facilities; and

f. The effective use of land and available utilities and facilities.

D. Employment Density.

1. In a commercial or industrial planned development, the employment density permitted for full-time equivalent (FTE) employees per acre may be limited by the ability of the city's infrastructure and available residential inventory to accommodate projected water and sanitary sewer loads, traffic generation and projected jobs to housing ratios. In a commercial or industrial

planned development, the number of FTE's per acre is based on net developable area.

The net developable area for a commercial or industrial planned development shall be calculated by taking the total area of the development less streets, public lands, and other nonemployment generating uses. Recreational trails and facilities, and open space, etc., shall be included in the net developable area.

The number of FTE's per acre within an employment district planned development shall be determined to be appropriate by the planning commission.

E. Staging.

1. The applicant may elect to develop the site in successive stages in a manner indicated in the general plan. Each such stage shall be substantially complete within itself.

2. The planning commission may require that development be done in stages if public facilities are not adequate to service the entire development initially. (Ord. 717 §1(part), 2002)

17.81.060 Procedure. An application for a planned development overlay shall be heard and approved under the public hearing procedures set forth in Chapter 17.162 of Title 17 of the Scappoose Municipal Code. A planned development, quasi-judicial zone change, and as necessary, a quasi-judicial comprehensive plan map amendment, may be processed concurrently. The fee charged for initiating a planned development overlay shall be equal to that charged for zone changes. (Ord. 717 §1(part), 2002)

17.81.070 Approval criteria. An application may be approved, approved with conditions, or denied based upon substantial conformance with the following criteria:

A. The proposed development complies with the comprehensive land use plan and is compatible with the surrounding area or its proposed future use;

B. That exceptions from the standards of the underlying district are warranted by the design and amenities such as usable common open space, cluster development, etc.;

C. That the proposal include designs and construction standards in compliance with city code and that all completed infrastructure be approved by the city and ownership of all infrastructure and public utilities deeded to the city upon completion;

D. That the development can be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;

E. That streets are adequate to support anticipated traffic, and the development will not overload the streets outside the planned area (as supported, when necessary, by a formal traffic impact analysis);

F. That proposed utility and drainage facilities are adequate for the population densities and type of development proposed;

G. That the proposed development can be substantially completed within a reasonable period of time. (Ord. 717 §1(part), 2002)

17.81.080 Tentative plan. A. Submission Requirements. The proponent shall submit an application with applicable fees to the planning commission for approval in principal. The tentative plan shall consist of twenty copies of all plans, maps and diagrams drawn in sufficient detail to indicate the nature of the plan elements and a written narrative description.

B. Procedures.

1. The planning commission shall review the tentative plan at a regular meeting and may recommend approval, approval with modifications, or denial of the application. Such recommendation shall be based upon the comprehensive

plan, this code, other regulations, and the suitability of the proposed development in relation to the character of the area.

2. The city council shall consider the tentative plan and program at a public hearing and take action based upon action recommended by the planning commission.

3. Approval of the tentative plan shall be limited to the tentative acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse precise location of uses nor engineering feasibility.

4. Tentative Plan Expiration Date. Within one year following the effective date of approval of a tentative plan, the general plan and program shall be submitted, and shall incorporate any modification or condition required by approval of the tentative plan. The planning services manager may, upon written request by the applicant, grant an extension of the expiration date of up to six months, upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the tentative plan, and after finding that no other development approval would be affected.

C. Submission Materials. The tentative plan need not be a finished drawing, but it should present all relevant graphic data, and be drawn to an engineering scale. The information shall include, but is not limited to, the following:

1. Proposed land uses, building locations, housing unit densities and estimated employment densities;

2. Existing and proposed contour map or maps of the site to a scale commensurate with the size of the development;

3. Location, widths and names of all existing or platted streets or other public ways, railroad and utility right-of-ways, parks or other public open spaces, and land uses within five hundred feet of the boundaries of the development;

4. Existing sewers, water mains and other underground facilities within and adjacent to the development and their certified capacities;

5. Proposed sewers or other disposal facilities, water mains and other underground utilities;

6. A tentative subdivision plan if the property is proposed to be divided;

7. Proposed grading and drainage pattern;

8. Areas proposed to be dedicated or reserved for interior circulation, public parks, playgrounds, schools sites, public buildings or other uses dedicated or reserved to the public, if any;

9. Open space that is to be maintained and controlled by the owners of the property and the proposed uses thereof;

10. A traffic flow map showing the circulation pattern within, and adjacent to, the proposed development;

11. Location and dimensions of pedestrian walkways, malls, trails or easements;

12. Location, arrangement, number and dimensions of automobile garages and parking spaces, width of aisles, bays and angle of parking, if any;

13. Location, arrangement, and dimensions of truck loading and unloading spaces and docks, if any;

14. Tentative architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, appearance and number of dwelling units, if applicable;

15. A tentative tree planting and landscaping plan including areas of groundcover and approximate finished grades, slopes, banks and ditches. All existing trees over six inches in diameter and groves of trees shall be delineated. Trees to be removed by development shall be so marked;

16. The approximate locations, height and materials of all walls, fences, and screen plantings. Elevation drawings of typical walls and fences shall be included;

17. The stages, if any, of the development construction. Stages shall be clearly marked on the general development plan;

18. Narrative statement of the goals and objectives of the planned development;

19. A completed professional market analysis, if required by the planning commission;

20. Evidence of resources available to develop the project;

21. Tables showing the total number of acres, the distribution of area by use, the percentage designated for each dwelling type, off-street parking, streets, parks, playgrounds, schools and open spaces as shown on the proposed development plan;

22. Tables showing the overall residential density of a proposed residential development, and overall employment density of a proposed commercial or industrial development, including any proposals for the limitation of density;

23. Drafts of appropriate restrictive covenants and documents providing for the maintenance of any common open space, required dedications or reservations, public open spaces, and any dedications of development rights.

D. Approval of General Plan and Program. The city council may approve the general plan with or without modifications as recommended by the planning commission.

E. Expiration. If substantial construction or development, as determined by the director, has not taken place within four years from the date of approval of the general plan, the planning commission shall review the planned development permit at a public hearing to determine whether or not its continuation in whole or in part is in the public interest, and if found not to be, shall remove the planned development designation on the subject. (Ord. 717 §1(part), 2002)

17.81.090 Final plan. Following approval of the general plan by the city council, the applicant shall prepare a final plan which shall be submitted to the planning services manager to check for compliance with the approved general plan.

A. If the final plan is found to be in compliance, it shall be so certified by the planning services manager. The final plat with all documents relating to dedications, improvements, agreements, restrictions and associations which shall constitute the final plan shall be recorded at Columbia County.

B. Land division regulations shall be met if the property is to be divided or streets are to be dedicated.

C. All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be recorded prior to the issuance of any building permit.

D. Final copies of all approved articles governing operation and maintenance shall be placed on file with the planning division prior to the issuance of any building permit.

E. An approved PD shall be identified on the zoning districts map in addition to the existing underlying district. For example, if a PD is approved in an area zoned R-4, the symbol identifying the PD area shall be shown as R-4PD on the zoning map. (Ord. 717 §1(part), 2002)

17.81.100 Changes and modifications. A. Major Changes. Major changes in the general plan after adoption shall be considered the same as a new petition and shall be made in accordance with the procedures specified in this section.

B. Minor Changes.

1. Minor changes in the general plan may be approved by the planning services manager, provided that such changes:

- a. Do not increase residential or employment densities;
- b. Do not change boundaries;
- c. Do not change any use;
- d. Do not change the location or amount of land devoted to specific land

uses.

2. Such changes may include minor shifting of the location of buildings, proposed streets, public or private ways, utility easements, parks, public open spaces or other features of the plan. (Ord. 717 §1(part), 2002)

17.81.110 Application of development standards--Conflict of planned development standards and zoning district standards. In cases of conflict between standards of the underlying district and the planned development, the standards of the planned development shall apply. (Ord. 717 §1(part), 2002)

Chapter 17.82

HISTORIC SITE, STRUCTURES AND LANDMARKS OVERLAY

Sections:

- 17.82.010 Purpose.
- 17.82.020 Applicability.
- 17.82.040 Adding or removing a historic overlay designation.
- 17.82.060 Exterior alteration and new construction.
- 17.82.070 Demolition.
- 17.82.080 Application submission requirements.
- 17.82.140 Appeals.

17.82.010 Purpose. The purpose of this chapter is to establish and maintain a historic site, structure and landmark overlay in order to protect, preserve, enhance and perpetuate the sites, structures and landmarks that represent the cultural, social and/or architectural history of the area; to encourage new buildings that complement adjacent historic sites, structures and landmarks; and to provide criteria for amending the historic site, structures and landmarks overlay, also referred to as the historic overlay. (Ord. 634 §1 Exh. A (part), 1995)

17.82.020 Applicability. All regulations and criteria of this chapter shall apply to sites, structures or landmarks identified in the comprehensive plan as primary or secondary historic resources. (Ord. 634 §1 Exh. A (part), 1995)

17.82.040 Adding or removing a historic overlay designation. A. The application for adding or removing a historic overlay designation may be initiated by the city council, planning commission, Scappoose historical society, neighborhood planning organization or the property owner.

B. The planning commission shall adopt a recommendation for final adoption by council on the creation, modification or removal of a historic overlay designation. In addition to persons who have the right to receive notice of hearing, the planner shall mail notice to the Scappoose historical society.

C. The planning commission may recommend approval of a historic overlay designation for adoption by council when the commission and council find that any of the following criteria have been met:

1. The site or area proposed for the designation reflects the broad cultural or natural history of the community, state or nation;
2. The site or area is identified with historic personage, or with events in national, state or local history;
3. The proposed site or area is a notable work of a master builder, designer or architect.
4. The age of a specific building is not sufficient in itself to warrant designation as historic.

D. The planning commission may recommend removal of an historic overlay designation for adoption by council when the commission and council find that any of the following criteria have been met:

1. The original historic overlay designation was placed on the site in error;
2. The resource designated with the historic overlay designation has ceased to exist;
3. The resource designated with the historic overlay designation is no longer of significance to the public. (Ord. 634 §1 Exh. A (part), 1995)

17.82.060 Exterior alteration and new construction. A. The planning commission shall review applications for exterior alteration or new construction pursuant to Chapter 17.162.

B. In addition to persons who have the right to receive notice of a quasi-judicial hearing, the planner shall mail notice to the Scappoose historical society.

C. The application for new construction, or for alteration to an existing structure shall be submitted by the owner of record of the property or an agent authorized in writing by the owner.

D. No person shall alter any structure in a historic overlay in a manner as to affect its exterior appearance, nor may any new structure be constructed on property identified as a historic site or landmark or within one hundred feet of a historic site, structure or landmark unless approved by the planning commission.

E. Exterior remodeling, as governed by this chapter, shall include any change or alteration in design or other exterior treatment excluding painting. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repairs which do not involve a change in design, material or the outward appearance of any architectural features.

F. As a condition of approval, the planning commission may require the applicant provide to the Scappoose historical society pictorial or graphic history of the

resource or artifacts from the site that the Scappoose historical society deems worthy of preservation prior to alteration of the site, structure or landmark.

G. For alteration of a site, structure or landmark, the following criteria shall be applied:

1. The economic use of the site, structure or landmark;
2. The relationship of the proposed alteration to the public interest in the preservation of the site, structure or landmark;
3. The historical significance of the site, structure or landmark;
4. The physical condition of the site, structure or landmark;
5. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used with existing structures.

H. For construction of new structures on or adjacent to an existing site, structure or landmark, the following criteria shall be applied:

1. The economic effect of the new structure on the historic value of the area;
2. The visual impact of the proposed new structure on the architectural character of the area; and
3. The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure. (Ord. 634 §1 Exh. A (part), 1995)

17.82.070 Demolition. A. The planning commission shall adopt a recommendation for final adoption by council on an application for demolition of a historic site, structure or landmark.

B. In addition to persons who have the right to receive notice, the planner shall mail notice to the Scappoose historical society.

C. The application for a demolition permit shall be submitted by the record owner of the property or an agent authorized in writing by the owner.

D. No person shall demolish any structure in an historic overlay unless recommended by the planning commission and approved by the city council.

E. The planner shall notify the Scappoose historical society, in writing within ten days of receiving the demolition application, to investigate possible methods to purchase and save the site, structure or landmark. A state agency, historical organization, or local group or individual may submit a concept or work plan outlining the steps needed to complete the necessary plans to purchase or save the structure.

F. Within ninety days of the date of the notice, the interested agency, organization, group, or individual shall notify the city of the intent to submit a plan to save the site, structure or landmark. On written request, the planner may approve an additional ninety-day extension to allow submission of a completed plan.

G. If no plan to save the structure or site is developed within the allowed time period, a recommendation by planning commission shall be submitted to the city council for approval or denial.

H. In determining the decision regarding a demolition permit, the planning commission and the council shall consider the following criteria:

1. The available criteria used in the original designation of the overlay area in which the property under consideration is situated;
2. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to similar features of the other buildings within the overlay area, and the position of the building or structure in relation to public rights of way, and to other buildings or structures in the area;
3. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the overlay area;
4. Whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this code. (Ord. 634 §1 Exh. A (part), 1995)

17.82.080 Application submission requirements. All applications subject to this chapter shall be made on forms provided by the planner and shall be accompanied by the following information:

A. A reproducible copy of the exterior alteration, new building construction, or site plan(s). The plans should include all necessary data or a

narrative which explains how the proposal conforms to the standards. The scale of the site plan shall be an engineering scale;

B. A list of the names and addresses of all who are property owners of record and whose property is within one hundred feet of the site; and

C. A site plan that includes the following information:

1. The proposed site and surrounding properties;
2. The location, dimensions and names of all existing streets;
3. The location and dimension of:
 - a. Entrances and exits on the site,
 - b. Parking and circulation areas,
 - c. Utilities, and
 - d. Existing and proposed landscaping,
4. The location, dimensions and setback distances of all:
 - a. Existing structures, improvements, and utilities which are located within one hundred feet of the site, structure or landmark, and
 - b. Proposed structures, improvements, landscaping and utilities on the site,
5. Floor plans indicating the square footage of all structures existing and proposed for the site, and
 - a. Where actual floor plans of existing structures are unavailable, the planning commission will accept drawings showing floor layout, dimensions, and square footage (of existing structures),
6. Elevation drawings or a photograph of each proposed or existing structure. (Ord. 634 §1 Exh. A (part), 1995)

17.82.140 Appeals. A. The Scappoose historical society shall be notified of any appeal.

B. To allow for the input of historical organizations, the appeal period for exterior modification or new construction permit decisions shall be extended to thirty days from mailing of notice of the planning commission action. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.84

SENSITIVE LANDS--FLOODING

Sections:

- 17.84.010 Purpose.
- 17.84.015 Definitions.
- 17.84.030 General provisions.
- 17.84.040 Applicability of uses.
- 17.84.050 Administration.
- 17.84.060 Approval process.
- 17.84.070 Maintenance of records.
- 17.84.120 Alteration of water courses.
- 17.84.130 Interpretation of FIRM boundaries.
- 17.84.140 Standards.
- 17.84.170 Regulations pertaining to fill.
- 17.84.180 Floodways.
- 17.84.190 Special standards for AO zones.
- 17.84.200 Special regulations for development in the Scappoose Creek floodway fringe (A, AE and AO zones).
- 17.84.210 Storage, placement or stockpiling buoyant or hazardous materials in flood hazard

areas (A, AE, AO, shaded X zones).

- 17.84.220 Variances to flood damage prevention.
- 17.84.230 Expiration of approval--Standards for extension of time.
- 17.84.250 Application submission requirements.

17.84.010 Purpose. A. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flooding. In general, the city's flood hazard chapter is designed:

1. To protect human life and health;
2. To minimize expenditures of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.

B. The city seeks to minimize or mitigate flood hazards by:

1. Implementing FEMA floodplain requirements for participation in the National Flood Insurance Program;
2. Prohibiting all encroachments in floodways (including parking lots) unless it conforms to Chapter 17.180;
3. Establishing a general development permit process to ensure compliance with FEMA regulations;
4. Establishing specific requirements for construction or substantial improvements in the floodway fringe and AO zones;
5. Requiring planning commission review and approval of proposals to store, place or stockpile buoyant or hazardous materials in special flood hazard areas;
6. Advocating the construction of cluster developments in special flood hazard areas over other types of development;
7. Prohibiting filling in floodways and regulating filling in floodway fringe areas to conform to Section 17.84.170 of this title. (Ord. 634 §1 Exh. A (part), 1995)

17.84.015 Definitions. For the purposes of this chapter, the following definitions apply:

"Accessory structures" includes sheds or small garages that are exempt from elevation or flood proofing requirements. (Note Section 17.84.140.)

"Applicant" refers to a person, organization, or agency applying for a development permit.

"Area of special flood hazard (SFHA)" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation of maps always includes the letter "A" (e.g., A, AE, AO). Federally backed lending institutions require the purchase of flood insurance for residential and some nonresidential structures in these zones.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "100-year" flood. Map designation always includes the letter "A" (e.g., A, AE, AO).

"Conditional letter of map revision" or "CLOMR" means a FEMA procedure to accommodate situations where proposed actions would have a net public benefit, but would produce a rise in the base flood elevation.

"Development" means any manmade change to improved or unimproved real estate. This includes, but is not limited to buildings, fill, riprap, dikes and

jetties. Development activities include mining, paving, grading, filling, excavating or drilling.

"Development permit" refers to a document or building permit authorizing an applicant to commence construction/development activities in a special flood hazard area.

"Federal emergency management agency (FEMA)" means the federal agency charged with implementing the National Flood Insurance Program. FEMA provides floodplain maps to the city of Scappoose.

"Fill" means the placement or removal of any material on the land for the purpose of increasing its elevation in relation to that which exists. Fill materials include but is are not limited to the following: soil, rock, concrete, etc.

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than one foot. Once established, nothing can be placed in the floodway that would cause any rise in base flood elevations. The city prohibits encroachments on designated floodways. However, there are special provisions for public works projects. (Section 17.84.180, Floodways). Floodways are depicted on flood relationships diagram set out at the end of this chapter.

"Floodway fringe" refers to those areas outside the floodway but within the one hundred-year floodplain. Zone designations on Flood Insurance Rate Maps include A, AE, AO and shaded X. Note floodway relationships diagram set out at the end of this chapter.

"Hazardous material" refers to a combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

"Highway ready" refers to a park trailer, travel trailer, or other recreational vehicle, which is on wheels or a jacking system. The vehicle is attached to the site by quick disconnect security devices and utility systems. A highway-ready vehicle does not have any permanently attached additions.

"Lowest floor" means the lowest portion of the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at Section 17.84.140.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation; travel trailers, park trailers, and similar vehicles are considered to be manufactured homes if they occupy a site in a SFHA for one hundred eighty consecutive days or more and are not fully licensed and highway ready. (Note definition for "Highway ready.") All manufactured homes

in a SFHA must be anchored to a permanent foundation pursuant to Section 17.84.140.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this chapter.

"Planned development (PD)" refers to a form of development usually characterized by a united site design for a number of housing units. Planned developments include clusters of buildings with common open space. Such developments allow for greater housing densities than that associated with single-lot zoning.

"Permanent foundation" means an approved structural support system that is capable of resisting flood forces. A building (including manufactured homes) anchored to a permanent foundation will resist flotation; collapse, or lateral movement produced by a one hundred-year flood. A permanent foundation may include reinforced piers or block walls, posts, concrete walls, properly compacted fill or other systems of equivalent strength. Dry stacked concrete blocks do not constitute a reinforced pier.

"Public works projects" refers to projects that are necessary to enhance or maintain general public welfare. Such projects may include, but are not limited to, flood control structures, public buildings, city infrastructures, utilities, parks and projects associated with resource protection.

SFHA. See "Special flood hazard area."

"Special flood hazard area" refers to areas that are subject to a one hundred-year flood. They are depicted on Flood Insurance Rate Maps by the letter "A." In Scappoose, this would include A, AE and AO zones. See "Zone designations."

"Special land use permit" refers to a document authorizing an applicant to store or stockpile buoyant or hazardous materials in a special flood hazard area. Requires planning commission approval.

"Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling unit or not part of the main structure.

"Structures" is a term that, for floodplain management purposes, means a walled and roofed building. The term also includes manufactured homes, and gas and liquid storage tanks that are principally above ground.

"Substantial improvement" means any repair, reconstruction or improvement of a structure, that includes the cumulative value of all building permits, and the cost of which equals or exceeds twenty-five percent of the market value of the structure either before the improvement or repair is started, or 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 that alteration affects the external dimensions of the structure.

Zone designations:

1. FH (flood hazard) overlay zone appears on the city of Scappoose plan map. It coincides with areas subject to flooding and regulated by this chapter.

2. A zone (lacking a letter) is depicted on FEMA Flood Insurance Rate Maps. It represents areas subject to a one hundred-year flood event but for which no flood elevations have been calculated. This does not, however, remove a builder's responsibility for obtaining base flood elevations. Sections 17.84.050(C) and 17.84.140.(D)(4) are applicable in an unlettered A zone.

3. AE zone (elevation provided) is depicted on FEMA Flood Insurance Rate Maps. It represents areas subject to a one hundred-year flood event. Base flood elevations appear on the map.

4. AO Zone represents areas of shallow flooding on FEMA Flood Insurance Rate Maps. Depths vary between one and three feet and are shown on the map. The nature of AO zones make them special cases for which special standards are required. (Note Section 17.84.190.)

5. X zone (shaded) appears on Flood Insurance Rate Maps. The shaded X zone represents areas subject to a one hundred-year flood event but where depths are less than one foot or the drainage area is less than one square mile. Shaded X zones in the vicinity of Scappoose are also associated with areas protected by dikes or levees from a one hundred-year flood. This chapter does not regulate development activities in shaded X zone. (Ord. 634 §1 Exh. A (part), 1995)

17.84.030 General provisions. A. This chapter shall apply to all special flood hazard areas (A, AE, AO zones) within the jurisdiction of the city.

B. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the city, August 16, 1988," with accompanying Flood Insurance Map is adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at City Hall, 52432 SE First Street, Scappoose, Oregon, 97056.

C. All new construction and substantial improvements shall be constructed with materials and utilize equipment resistant to flood damage.

D. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

E. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system in accordance with the Uniform Building Code and Uniform Plumbing Code.

G. All new construction, all manufactured homes and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

H. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters. (Ord. 634 §1 Exh. A (part), 1995)

17.84.040 Applicability of uses. A. The following uses shall require no additional permits:

1. Agricultural uses conducted without locating a structure;
2. Community recreation uses such as bicycle and pedestrian paths or athletic fields or parks, excluding structures;
3. Public and private conservation areas for water, soil, open space, forest and wildlife resources;

4. Removal of poison oak, tansy ragwort, blackberry or other noxious vegetation;

5. Maintenance of floodway excluding re-channeling; and

6. Fences, except in the floodway area.

B. In addition to federal, state or county permits for the appropriate division, a development permit shall be obtained from the city for the following:

1. Residential zones, single-family dwellings and their accessory uses. For commercial and industrial zones,

permitted uses of the underlying zone and their accessory use. All uses are subject to a minimum lot size of twenty thousand square feet where a structure is to be placed within the A, AE and AO zones, and subject to requirements of this chapter;

2. Installation of underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights and driveway aprons;

3. Minimal ground disturbance(s) but no landform alterations; and

4. Repair, reconstruction or improvement of an existing structure or utility, the cost of which is less than fifty percent of the market value of the structure as determined by the county tax assessor prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway.

C. A development permit shall be obtained before construction or development begins within any area of special flood hazard or drainageway unless specifically allowed in subsection A of this section. The permit shall apply to all structures including manufactured homes. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.84.050 Administration. A. The planner is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with the Chapter 17.162.

B. Duties of the planner shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 17.84.180 are met;

4. Review all applications for a development permit to determine if the proposed project is located in the floodway fringe. If located in the floodway fringe, assure the special standards requirements are met (Section 17.84.200).

C. When base flood elevation data has not been provided in accordance with Section 17.84.030, the applicant shall supply such data.

D. The recipient of a development permit must provide certification from a registered engineer, or surveyor that

buildings are elevated or flood-proofed according to standards set forth in Section 17.84.140. Appropriate certification forms will be provided by the city.

E. A development permit shall not be issued for construction in AE and AO zones within the Scappoose Creek floodway fringe until the application satisfies the requirements set forth in Section 17.84.200.

F. Applicants receiving a development permit to construct or substantially improve a residential or nonresidential structure in an A and AE zone must comply with applicable standards in Sections 17.84.140, and 17.84.200.

G. Applicants receiving a development permit to construct or substantially improve a residential or nonresidential structure in an AO zone must comply with applicable standards in Section 17.84.140, 17.84.190 and 17.84.200.

H. A special land use permit, requiring planning commission approval, must be obtained prior to storing or stockpiling buoyant or hazardous materials in a special flood hazard area. (See Section 17.84.210.) (Ord. 634 §1 Exh. A (part), 1995)

17.84.060 Approval process. A. The applicant for a development permit shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The planner and public works director shall review all development permit applications to determine that all necessary permits are obtained from those federal, state, or local governmental agencies from which prior approval is also required.

C. The planner shall apply the standards set forth in this chapter when reviewing an application for a development permit. (Ord. 634 §1 Exh. A (part), 1995)

17.84.070 Maintenance of records. A. When base flood elevation data is provided through the Flood Insurance Study or required as in Section 17.84.050(C), the applicant shall provide certification of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement.

B. For all new or substantially floodproofed structures, the applicant shall submit a certificate by a registered surveyor verifying and recording the actual elevation (in relation to mean sea level) prior to construction, the actual elevation (in relation to mean sea level) of the

lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

C. The planner shall maintain the floodproofing certifications required in this chapter.

D. The planner shall maintain for public inspection all other records pertaining to the provisions in this chapter. (Ord. 634 §1 Exh. A (part), 1995)

17.84.120 Alteration of water courses. A. The planner shall notify the appropriate federal and state agencies prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Insurance Administration.

B. The planner shall require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. (Ord. 634 §1 Exh. A (part), 1995)

17.84.130 Interpretation of FIRM boundaries. The planner shall make interpretation, where needed, as to exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76). (Ord. 634 §1 Exh. A (part), 1995)

17.84.140 Standards. In all A, AE and AO zones, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during condition of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the system.

2. New and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, the developer shall provide such information.

E. New construction and substantial improvement of any residential structure shall have the lowest habitable floor, including basement, elevated to one foot above base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:

1. A minimum of two openings with a net area of not less than two square inches for every square foot of enclosed area subject to flooding shall be provided;

2. The bottom of all openings shall be no higher than one foot above grade;

3. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters; and

4. Screening, fencing or otherwise obstructing open areas between pillars on pile or pillar foundations shall be prohibited.

F. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor,

including basement, elevated to the level one foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed one foot above the base flood elevation. The structure shall be watertight below the base flood elevation with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.84.050(C).

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection A of this section.

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood elevation will be rated as if floodproofed to the base flood level).

G. Manufactured Homes. All manufactured homes to be placed or substantially improved in zones A, AE or AO shall be placed on a permanent foundation such that the lowest floor of manufactured home is one foot above base flood elevation.

1. Permanent foundation: is resistive to flood velocities and may include concrete slabs, stem walls, and piers that are firmly embedded in the ground. Manufactured homes may be placed on reinforced (not dry-stacked) concrete blocks providing the home is firmly anchored to the ground pursuant to this section.

H. Travel Trailers and Similar Vehicles. Travel trailers and similar vehicles that occupy a site in the SFHA for a period greater than sixty consecutive days must meet elevation and anchoring standards pursuant to this section or be fully licensed and highway ready: (see definitions).

I. Accessory Structures. Accessory structures such as sheds, small detached garages, etc., to be located in A, AO, AE and X shaded on map zones, may be exempt from elevation and floodproofing standards providing the following conditions are met:

1. Accessory structures cannot be more than three hundred square feet in area;

2. Accessory structures shall not be used for human habitation;

3. Accessory structures shall be designed to have low flood potential;

4. Accessory structures shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; and

5. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.84.170 Regulations pertaining to fill. A. No filling operations of any kind shall be allowed in the floodway.

B. No fill in floodway fringe areas shall be allowed unless the net effect of excavation and filling operations (on-site) constitutes no positive change in fill volume. An application for fill in the floodway fringe shall require implementation of special permit requirements of the development permit (see Section 17.84.200).

C. Fill shall be allowed under city fill permit procedures in shaded X zones. No structure shall be built nor any excavation grading, nor filling

shall be done within the one hundred-year flood plain without first meeting the requirements of this chapter regulating construction, alteration, repair and moving of buildings. (Ord. 634 §1 Exh. A (part), 1995)

17.84.180 Floodways. A. Floodways are established in special flood hazard areas (SFHA) to transport the waters of a one hundred-year flood out of the community as quickly as possible. Encroachments on the floodway generally produce a rise in base flood elevations and contribute to other hydraulic problems. Accordingly, the city prohibits encroachment on designated floodways except for public works projects pursuant to subsection B of this section.

B. The city recognizes that utilities, flood prevention structures, and municipal improvement projects that are in the public's best interest must sometimes encroach on designated floodways. In compliance with FEMA Regulations, the city will permit floodway encroachments under the following conditions:

1. Hydraulic and hydrologic analysis on the impact on the one hundred-year floodways are completed by the developer; and

2. The city has determined the project to be of public necessity; and

3. If the studies required in subsection (B) (1) of this section indicate an increase in net gain, FEMA has issued a conditional flood insurance rate and floodway revision. (Ord. 634 §1 Exh. A (part), 1995)

17.84.190 Special standards for AO zones. A. AO zones are depicted on Flood Insurance Rate Maps (FIRMS). They coincide with areas subject to a one hundred-year flood where depths vary between one and three feet. AO zones are associated with areas where sheet flow is most evident; i.e., where there is no clear channel. Flood depths appear on the FIRM.

B. Proposed construction in an AO zone must comply with the General Standards provided in Section 17.84.140, excepting areas specifically covered in this section.

C. New construction and substantial improvements of residential structures in AO zones shall:

1. Have the lowest floor, including basement, elevated one foot above the highest adjacent grade of the building site; or

2. Have the lowest floor, including basement, elevated one foot above the depth number specified on the FIRM;

3. Have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. New construction and substantial improvements of non-residential structures in AO zones shall either:

1. Have the lowest floor, including basement, elevated one foot above the highest adjacent grade of the building site; or

2. Have the lowest floor, including basement, one foot above the depth number; or

3. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below is watertight; walls shall be substantially impermeable to the passage of water and structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

4. Compliance with subdivision (3) above, shall be certified by a registered professional engineer;

5. Have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 634 §1 Exh. A (part), 1995)

17.84.200 Special regulations for development in the Scappoose Creek floodway fringe (A, AE and AO zones). A. Proposed development or substantial improvement in the Scappoose Creek floodway fringe must conform with applicable general and specific standards in Section 17.84.140, and special standards in AO zones (Sections 17.84.190 and 17.84.200);

B. In addition to the application requirements for the specific proposal, the development application shall contain a registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred-year event as it exists on the FIRM Flood Insurance Rate Map effective August 16, 1988 or create additions that would be detrimental to adjacent or neighboring properties. (Ord. 634 §1 Exh. A (part), 1995)

17.84.210 Storage, placement or stockpiling buoyant or hazardous materials in flood hazard areas (A, AE, AO, shaded X zones). A. The transportation of buoyant or hazardous materials (Note: see Section 17.84.015, Definitions) from rising floodwaters contributes to the community's flood hazard. Accordingly, a permit must be obtained from the planning commission prior to storage, placement or stockpiling in a flood hazard zone (A, AE, AO). The application shall be processed according to Chapter 17.162.

1. In determining whether or not a permit will be granted to store, place or stockpile buoyant or hazardous materials in a flood hazard area, the planning commission shall consider the following:

- a. The nature of the materials (e.g., buoyancy, toxicity, flammability);
- b. The danger that materials may be swept onto other properties or structures with resulting injury or damage;
- c. The necessity of locating the materials on the particular site, especially in terms of public benefit;
- d. The ability of emergency vehicles to reach the site in times of flooding;
- e. The availability of alternative locations which are less susceptible to flooding;
- f. The applicant's plan for hazard mitigation;
- g. The requirements of development, including Section 17.84.200.

B. The placement, storage or stockpiling of buoyant or hazardous materials in a floodway is prohibited unless it is associated with a short-term public works project. The planning commission must consider the flood potential and establish a time in which the materials must be removed. (Ord. 634 §1 Exh. A (part), 1995)

17.84.220 Variances to flood damage prevention. A. A variance is a departure or grant of relief from the strict letter of the flood damage prevention chapter. It is designed for those situations where a proposed action is in keeping with the purpose of the chapter but there are practical difficulties in meeting strict chapter standards. The conditions for granting variances are stringent. When dealing with a flood hazard there is little margin for error.

B. All flood hazard variances are deemed to be a major variance as defined in Chapter 17.134 and shall be so administered and appealed.

C. The planner shall maintain the records of all appeal actions and report any variances to the federal Emergency Management Agency (FEMA) upon request.

D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the comprehensive plan as historic sites, structures or landmarks, or National Register of Historic Places or the State

Inventory of Historic Places, without regard to the procedures set forth in this section.

E. Variances shall not be issued within a designated floodway.

F. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant that outweighs the risk associated with the variance; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud or a victimization of the public.

G. Variances as interpreted in the National Flood Insurance Program are based on the General Zoning Law Principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

H. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing that watertight or dry floodproofing, where it can be determined that such action will have low damage potential and complies with all other variance criteria.

I. Any applicant to whom a variance is granted shall be given notice that the structure will be permitted to be built with a lowest floor elevation below the base flood

elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation. (Ord. 634 §1 Exh. A (part), 1995)

17.84.230 Expiration of approval--Standards for extension of time. A. Approval of a development permit shall be void if:

1. Substantial construction of the approved plan has not been completed within a one-year period; or

2. Construction on the site is a departure from the approved plan.

B. The planner may, upon written request by the applicant grant an extension of the approval period not to exceed one year, provided that:

1. No changes are made on the original plan as approved by the approval authority;

2. The applicant can show intent of initiating construction of the site within the one year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and the provisions of this title on which the approval was based.

C. Notice of the decision shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.84.250 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. A registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred-year event as it exists on the FIRM Flood Insurance Rate Map effective August 16, 1988 or create additions that would be detrimental to adjacent or neighboring properties;

2. One reproducible copy of the development plan(s) and necessary data or narrative which explains how the development conforms to the standards. Sheet size for the development plan(s) and required drawings shall not exceed eighteen inches by twenty-four inches and the scale for all development plans shall be an engineering scale;

3. A list of the names and addresses of all who are property owners of record within two hundred feet of the site.

B. The development plan and narrative shall include the following information. Items may be combined on one map.

1. Existing site conditions including vicinity map showing the location of the property in relation to adjacent properties and including parcel boundaries, dimensions and gross area;

2. The location, dimensions and names of all existing and platted streets and other public ways, railroad tracks and crossings, and easements on adjacent property and on the site and proposed streets or other public ways, easements on the site;

3. The location, dimensions and setback distances of all existing structures, improvements, utility and drainage facilities on adjoining properties and existing structures, water, sewer, improvements, utility and drainage facilities to remain on the site; and proposed structures, water, sewer, improvements, utility and drainage facilities on the site;

4. Contour lines at two-foot intervals for slopes from zero to ten percent and five-foot intervals from slopes over ten percent;

5. The drainage patterns and drainage courses on the site and on adjacent lands;

6. Potential natural hazard areas including:

a. Floodplain areas,

b. Areas having a high seasonal water table within zero to twenty-four inches of the surface for three or more weeks of the year,

c. Unstable ground (areas subject to slumping, earth slides or movement). Where the site is subject to landslides or other potential hazard, a soils and engineering geologic study based on the proposed project may be required which shows the area can be made suitable for the proposed development,

d. Areas having a severe soil erosion potential, and

e. Areas having severe weak foundation soils;

7. The location of trees having a six-inch caliper at four feet. Only those trees that will be affected by the proposed development need to be sited accurately. Where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be required;

8. Identification information, including the name and address of the owner, developer, and project designer, and the scale and north arrow;

9. A grading and drainage plan at the same scale as the site conditions and including the following:

a. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals,

b. A statement from a registered engineer supported by factual data that all drainage facilities are designed in conformance A.P.W.A standards and as reviewed and approved by the public works director. (Ord. 634 §1 Exh. A (part), 1995)

Floodplain Relationships Diagram

Chapter 17.85

SENSITIVE LANDS--WETLANDS

Sections:

17.85.010 Purpose.

17.85.020 Applicability of uses.

- 17.85.030 Administration and approval.
- 17.85.040 General provisions for wetlands.
- 17.85.050 Expiration of approval--Standards for extension of time.
- 17.85.060 Approval standards.
- 17.85.070 Application submission requirements.

17.85.010 Purpose. The purpose of this chapter is to protect the public health, safety and welfare of the community through the regulation of these sensitive land areas and insure implementation of requirements of the Division of State Lands and other appropriate regulatory agencies; protect unique, fragile and valuable elements of the environment including wildlife and its habitat; mitigate unavoidable impacts to environmentally sensitive areas by regulating alterations in and adjacent to sensitive areas; and prevent cumulative adverse environmental impacts wetlands. (Ord. 634 §1 Exh. A (part), 1995)

17.85.020 Applicability of uses. A. For the purposes of this chapter, the word "structure" shall exclude: children's play equipment, picnic tables, sand boxes, shelters, grills, basketball hoops and similar recreational equipment.

B. Except as provided by this chapter, the following uses are outright permitted uses within wetland areas:

1. Public and private conservation areas for water, soil, open space, forest and wildlife resources;
2. Removal of poison oak, tansy ragwort, blackberry or other noxious vegetation;
3. Maintenance of floodway excluding re-channeling; and

C. Separate permits shall be obtained from the appropriate city, state and federal agency for the following:

1. Installation of underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights, and driveway aprons;
2. Minimal ground disturbance(s) but no landform alterations.

D. Landform alterations or developments within wetland areas that meet the jurisdictional requirements and

permit criteria of the U.S. Army Corps of Engineers, Division of State Lands, and/or other federal, state or regional agencies do not require a development permit. All other applicable city requirements must be satisfied, including development permits for areas meeting nonwetland sensitive land criteria.

E. A development permit approval shall be obtained before construction or development begins within any area of wetland. The permit shall apply to all structures including manufactured homes.

F. Except as explicitly authorized by other provisions of this chapter, all other uses are prohibited in wetland areas. (Ord. 634 §1 Exh. A (part), 1995)

17.85.030 Administration and approval. A. The planner shall review all development permit applications to determine that all necessary permits shall be obtained from those federal, state, or local governmental agencies from which prior approval is also required.

B. The approval authority shall apply the standards set forth in Section 17.85.060 when reviewing an application for a wetlands development permit.

C. Applications for wetlands development permits shall be processed in accordance with Chapter 17.162, Procedures for Decision Making -- Quasi-Judicial. (Ord. 634 §1 Exh. A (part), 1995)

17.85.040 General provisions for wetlands. A. Wetland regulations apply to those areas meeting the definition of wetland in Chapter 17.26, Definitions, areas meeting Division of State Lands wetland criteria and to land adjacent to and within twenty-five feet of a wetland. Wetland locations may include but are not limited to those areas identified as wetlands in the National Wetlands Inventory, United States Department of Interior.

B. Precise boundaries may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary. Wetland delineation will be done by qualified professionals at the applicant's expense. (Ord. 634 §1 Exh. A (part), 1995)

17.85.050 Expiration of approval--Standards for extension of time. A. Approval of a development permit shall be void if:

1. Substantial construction of the approved plan has not begun within a one year period; or

2. Construction on the site is a departure from the approved plan.

B. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year, provided that:

1. No changes are made on the original plan as approved by the approval authority;

2. The applicant can show intent of initiating construction of the site within the one year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

C. Notice of the extension shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.85.060 Approval standards. The planner may approve or approve with conditions an application request within identified wetlands based upon findings that all of the following criteria have been satisfied:

A. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands approvals shall be obtained;

B. The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than the minimum required for the use;

C. Any encroachment or change in on-site or off-site drainage which would adversely impact wetland characteristics have been mitigated;

D. All other sensitive lands requirements of this title have been met;

E. Physical limitations and natural hazards, floodplain and wetlands, natural areas and parks, recreation and open space policies of the comprehensive plan have been satisfied. (Ord. 634 §1 Exh. A (part), 1995)

17.85.070 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. One reproducible copy of the development plan(s) and necessary data or narrative which explains how the development conforms to the standards. Sheet size for the development plan(s) and required drawings shall not exceed eighteen inches by twenty-four inches and the scale for all development plans shall be an engineering scale;

2. A list of the names and addresses of all who are property owners of record within two hundred feet of the site.

B. The development plan and narrative shall include the following information. Items may be combined on one map.

1. Existing site conditions including vicinity map showing the location of the property in relation to adjacent properties and including parcel boundaries, dimensions and gross area;

2. The location, dimensions and names of all existing and platted streets and other public ways, railroad tracks and crossings, and easements on adjacent property and on the site and proposed streets or other public ways, easements on the site;

3. The location, dimensions and setback distances of all existing structures, improvements, utility and drainage facilities on adjoining properties and existing structures, water, sewer, improvements, utility and drainage facilities to remain on the site; and proposed structures, water, sewer, improvements, utility and drainage facilities on the site;

4. Contour lines at two-foot intervals for slopes from zero to ten percent and five-foot intervals from slopes over ten percent;

5. The drainage patterns and drainage courses on the site and on adjacent lands;

6. Potential natural hazard areas including:

a. Floodplain areas,

b. Areas having a high seasonal water table within zero to twenty-four inches of the surface for three or more weeks of the year,

c. Unstable ground (areas subject to slumping, earth slides or movement). Where the site is subject to landslides or other potential hazard, a soils and engineering geologic study based on the proposed project may be required which shows the area can be made suitable for the proposed development,

d. Areas having a severe soil erosion potential, and

e. Areas having severe weak foundation soils;

7. The location of trees having a six-inch caliper at four feet. Only those trees that will be affected by the proposed development need to be sited accurately. Where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be required;

8. Identification information, including the name and address of the owner, developer, and project designer, and the scale and north arrow;

9. A grading and drainage plan at the same scale as the site conditions and including the following:

a. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals,

b. A statement from a registered engineer supported by factual data that all drainage facilities are designed in conformance A.P.W.A standards and as reviewed and approved by the public works director;

10. The method for mitigating any adverse impacts upon wetland, riparian or wildlife habitat areas. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.86

SENSITIVE LANDS--SLOPE HAZARD

Sections:

- 17.86.010 Purpose.
- 17.86.020 Applicability of uses.
- 17.86.030 Administration and approval process.
- 17.86.040 Maintenance of records.
- 17.86.050 General provisions for slope areas.
- 17.86.060 Expiration of approval.
- 17.86.070 Approval standards.
- 17.86.080 Application submission requirements.

17.86.010 Purpose. The purpose of this chapter is to regulate development and alterations to steep slope areas in order to protect members of the public and public resources and facilities from injury, loss of life, property damage, or financial losses due to erosion, flooding, landslide, seismic events, soil subsidence or steep slope failures. (Ord. 634 §1 Exh. A (part), 1995)

17.86.020 Applicability of uses. A. Except as provided by this section, the following uses are permitted uses:

1. Accessory uses such as lawns, gardens or play areas, except in wetlands;
2. Agricultural uses conducted without locating a structure or altering landforms;
3. Public and private conservation areas for water, soil, open space, forest and wildlife resources;
4. Removal of poison oak, tansy ragwort, blackberry or other noxious vegetation;
5. Fences.

B. Separate permits shall be obtained from the appropriate state, county or city jurisdiction for the following:

1. Installation of underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights and driveway aprons;
2. Minimal ground disturbance(s) but no landform alterations.

C. For the purpose of this chapter, "slope hazard areas" means those areas subject to a severe risk of landslide or erosion. They include any of the following areas:

1. Any area containing slopes greater than or equal to fifteen percent and two of the following subsections;

a. Impermeable soils (typically silt and clay) frequently interbedded with granular soils (predominately sand and gravel),

b. Any area located on areas containing soils which, according to the current version of the soil survey of Columbia County, Oregon may experience severe to very severe erosion hazard,

c. Any area located on areas containing soils which, according to the current version of the soil survey of Columbia County, Oregon are poorly drained or subject to rapid runoff,

d. Springs or ground water seepage;

2. Any area potentially unstable as a result of natural drainageways, rapid stream incision, or stream bank erosion;

3. Any area located on an alluvial fan, presently subject to or potentially subject to inundation by debris flows or deposition of stream transported sediments;

4. Any area containing slopes greater than or equal to twenty percent.

D. Landform alterations or developments within slope hazard areas that meet the jurisdictional requirements and permit criteria of the U.S. Army Corps of Engineers, Division of State Lands, and/or other federal, state or regional agencies do not require duplicate analysis or local permits. The city may require additional information not addressed above. When any provision of any other chapter of this title conflicts with this chapter, the regulations that provides more protection to the sensitive areas shall apply unless specifically provided otherwise in this chapter; provided, such exceptions shall not conflict with any federal, state or local regulation.

E. A development permit shall be obtained before construction or development begins within any area of slope hazard as identified in subsection C of this section. The permit shall apply to all structures including manufactured homes.

F. Except as explicitly authorized by other provisions of this chapter, all other uses are prohibited on steep slope areas.

G. A use established prior to the adoption of this title, which would be prohibited by this chapter or which would be subject to the limitations and controls imposed by this chapter, shall be considered a nonconforming use. Nonconforming uses shall be subject to the provisions of Chapter 17.132.

H. The planner shall determine if a slope hazard applies based upon one or any combination described in subsection C of this section. (Ord. 634 §1 Exh. A (part), 1995)

17.86.030 Administration and approval process. A. The applicant for a development permit shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. If uncertainty exists in regards to the location or configuration of slope hazard areas, the planner shall make an on-site inspection prior to an application being initiated to determine the nature and extent of the resource. If necessary, assistance from state and federal agencies shall be sought to provide the applicant additional information.

C. The planner shall review all development applications to determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes, objectives and requirements of this chapter.

D. The applicant shall submit an affidavit which:

1. Declares that the applicant has no knowledge that sensitive areas on the development proposal site have been illegally altered, and that the applicant previously has not been found in violation of sensitive areas regulations for any property in Columbia County;

2. Demonstrates that any development proposal submitted conforms to the purposes, standards and protection mechanisms of this chapter;

3. If required, prepare a special sensitive areas study in accordance with Section 17.86.070;

E. Approval of a development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

F. The provisions of this chapter shall apply to all forest practices over which the city has jurisdiction, and to all property which has been cleared and/or graded without an approved state and local permit.

G. The application shall be processed in accordance with Chapter 17.162. (Ord. 634 §1 Exh. A (part), 1995)

17.86.040 Maintenance of records. A. The planner shall retain on file, the current version of the soil survey for Columbia County, Oregon as provided by the Soil Conservation Service, of the Department of Agriculture.

B. The planner shall retain on file all studies of soil hazards areas for new or existing development or construction. (Ord. 634 §1 Exh. A (part), 1995)

17.86.050 General provisions for slope areas. A. Slope hazard regulations apply to those areas meeting the federal, state or local definition of "slope hazard" as

identified in Section 17.86.020(c) and areas of land adjacent to and within one hundred feet of areas identified as slope hazards.

B. Slope locations may include but are not limited to those areas identified as slope hazards in the Scappoose comprehensive plan.

C. Precise boundaries may vary from those shown on maps; specific delineation of slope hazards boundaries may be necessary. Slope hazard

delineation will be done by qualified professionals at the applicant's expense. (Ord. 634 §1 Exh. A (part), 1995)

17.86.060 Expiration of approval. A. Approval of a development permit shall be void if:

1. Substantial construction of the approved plan has not completed within a one-year period; or

2. Construction on the site is a departure from the approved plan.

B. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year, provided that:

1. No changes are made on the original plan as approved by the approval authority;

2. The applicant can show intent of initiating construction of the site within the one year extension period;

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based;

4. There have been no naturally occurring or manmade changes to the landform.

C. Notice of the extension shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.86.070 Approval standards. A. The planner or the planning commission may approve or approve with conditions or deny an application request within the slope area based upon following findings:

1. Land form alterations shall preserve or enhance slope stability;

2. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;

3. Land form alterations or developments address stormwater runoff, maintenance of natural drainageways, and reduction of flow intensity by the use of retention areas;

4. The structures are appropriately sited and designed to ensure structural stability and proper drainage

of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock;

5. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 17.100;

6. The water flow capacity of the drainageway is not decreased or the drainageway will be replaced by a public facility of adequate size to accommodate maximum flow;

7. The necessary U.S. Army Corps of Engineers and state of Oregon Land Board, Division of State Lands and Department of Environmental Quality approvals shall be obtained;

8. No development, building, construction or grading permit may be issued on lands in the slope hazard area until the public works director approves:

a. An engineering geotechnical study and supporting data demonstrating that the site is stable for the proposed use and development,

b. The study shall include at a minimum geologic conditions, soil types and nature, soil strength, water table, history of area, slopes, slope stability, erosion, affects of proposed construction, and recommendations. This study shall be completed by a registered geotechnical engineer in the state of Oregon. The plans and specifications shall be based on the study

recommendations shall be prepared and signed by a professional civil engineer registered in the state of Oregon,

c. A stabilization program for an identified hazardous condition based on established and proven engineering techniques that ensure protection of public and private property,

d. A plan showing that the strategically important vegetative cover shall be maintained or established for stability and erosion control purposes,

e. A plan showing the proposed stormwater system. Said system will not divert stormwater into slope hazard areas.

B. Where landform alterations and/or development are allowed within and adjacent to the one hundred-year floodplain, the requirements of Chapter 17.84 shall be met.

C. Where landform alterations and/or development are allowed within and adjacent to wetlands, the requirements of Chapter 17.85 shall be met. (Ord. 634 §1 Exh. A (part), 1995)

17.86.080 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. One reproducible copy of the development plan(s) and necessary data or narrative which explains how the development conforms to the standards. Sheet size for the development plan(s) and required drawings shall not exceed eighteen inches by twenty-four inches and the scale for all development plans shall be an engineering scale;

2. A list of the names and addresses of all who are property owners of record within two hundred feet of the site.

B. The development plan and narrative shall include the following information. Items may be combined on one map:

1. Existing site conditions including vicinity map showing the location of the property in relation to adjacent properties and including parcel boundaries, dimensions and gross area;

2. The location, dimensions and names of all existing and platted streets and other public ways, railroad tracks and crossings, and easements on adjacent property and on the site and proposed streets or other public ways, easements on the site;

3. The location, dimensions and setback distances of all existing structures, improvements, utility and drainage facilities on adjoining properties and existing structures, water, sewer, improvements, utility and drainage facilities to remain on the site; and proposed structures, water, sewer, improvements, utility and drainage facilities on the site;

4. Contour lines at two-foot intervals for slopes from zero to ten percent and five-foot intervals from slopes over ten percent;

5. The drainage patterns and drainage courses on the site and on adjacent lands;

6. Potential natural hazard areas including:

a. Floodplain areas,

b. Areas having a high seasonal water table within zero to twenty-four inches of the surface for three or more weeks of the year,

c. Unstable ground (areas subject to slumping, earth slides or movement). Where the site is subject to landslides or other potential hazard, a soils and engineering geologic study based on the proposed project may be required which shows the area can be made suitable for the proposed development,

d. Areas having a severe soil erosion potential, and

e. Areas having severe weak foundation soils;

7. The location of trees having a six-inch caliper at four feet. Only those trees that will be affected by the proposed development need to be sited

accurately. Where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be required;

8. Identification information, including the name and address of the owner, developer, and project designer, and the scale and north arrow;

9. A grading and drainage plan that includes:

a. The identification and location of the benchmark and corresponding datum,

b. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals,

c. When requested by the planner, a statement from a registered engineer supported by factual data substantiating:

i. The validity of the slope stabilization proposals,

ii. That other off-site impacts will not be created,

iii. Stream flow calculations,

iv. Cut and fill calculations, and

v. Channelization measures proposed.

d. A statement from a registered engineer supported by factual data that all drainage facilities are designed in conformance A.P.W.A standards and as reviewed and approved by the public works director;

10. The method for mitigating any adverse impacts upon wetland, riparian or wildlife habitat areas. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.88

AO AIRPORT OVERLAY DISTRICT

Sections:

17.88.010 Purpose.

17.88.020 Compliance.

17.88.030 Special definitions.

17.88.040 Permitted uses within the runway protection zone.

17.88.050 Permitted uses within the airport approach safety zone.

17.88.060 Conditional uses.

17.88.070 Approval of conditional uses.

17.88.080 Approval of uses allowed in the underlying zones.

Sections: (Continued)

17.88.090 Limitations.

17.88.100 Variances.

17.88.010 Purpose. The purpose of this overlay zone is to prevent airspace conflicts within the FAA Part 77 imaginary surfaces area which is utilized by aircraft arriving at and departing from the Scappoose Industrial Airport. This zone, as indicated on the map included in this chapter, includes all areas lying within the approach, departure, horizontal and conical zones of the airport facility as shown on the Scappoose Industrial Airport Master Plan Report and updates of this document and the zoning maps. Further, this overlay zone is intended to prevent the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the city. (Ord. 634 §1 Exh. A (part), 1995)

17.88.020 Compliance. In addition to complying with the provision of the primary zone, uses and activities shall comply with the provisions of this overlay zone. In the event of any conflict between any provision of this overlay zone and the primary zone, the more restrictive provision shall apply. (Ord. 634 §1 Exh. A (part), 1995)

17.88.030 Special definitions. As used in this chapter:

"Airport" means Scappoose Industrial Airpark.

"Airport approach/departure and safety zone" means a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of three thousand five hundred feet for the Scappoose Industrial Airpark, a nonprecision instrument runway having visibility minimums as low as three-fourths statute mile.

The airport approach surface extends for a horizontal distance ten thousand feet at a slope of thirty-four feet outward for each one foot upward (34:1) for the Scappoose Industrial Airpark then slopes upward forty feet outward for each foot upwards (40:1) an additional distance of forty thousand feet.

"Airport elevation" means the highest point of an airport's usable runway expressed in feet above mean sea level.

"Airport hazard" means any structure, tree or use of land which exceeds height limits established by the airport imaginary surfaces.

"Airport imaginary surfaces" means those imaginary areas in space which are defined by the airport approach safety zone, transitional zones, horizontal zone, runway protection zone (RPZ) and conical surface and in which any object extending above these imaginary surfaces is an obstruction.

"Conical Surface" extends twenty feet outward for each one foot upward (20:1) for four thousand feet beginning at the edge of the horizontal surface (ten thousand feet from the center of each end of the Primary Surface of each runway at one hundred fifty feet above the airport elevation) and upward extending to a height of three hundred fifty feet above the airport elevation.

"Conical zone" is established as the area that commences at the periphery of the horizontal zone and extends outward and upward at 20:1 therefrom for a horizontal distance of four thousand feet.

"General utility Stage I airport" means an airport designed and maintained to serve airplanes having approach speeds less than one hundred twenty-one knots and wing spans of seventy-nine feet or less.

"Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

"Height" means the highest point of an object measured from mean sea level.

"Horizontal surface" means a horizontal plane one hundred fifty feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

"Horizontal zone" means the horizontal zone is established by swinging arcs of ten thousand feet radii from the center of each end of the primary surface of each visual or utility runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and departure zones.

"Noise sensitive areas" means areas within one thousand five hundred feet of an airport or within established noise contour boundaries exceeding fifty-five Ldn.

"Nonconforming use" means any pre-existing (i.e., established prior to the effective date of this title) structure, object of natural growth, or use of land which is inconsistent with the provisions of this title or an amendment thereto.

"Obstruction" means any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in this title.

"Place of public assembly" means a structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

"Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet beyond each end of that runway. When the runway has no special prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is two hundred fifty feet for utility runways having only visual approaches, five hundred feet for utility runways having nonprecision instrument approaches, five hundred feet for other than utility runways and one thousand feet for nonprecision instrument runways with visibility minimums of three-fourths of a mile or less and for precision instrument runways.

"Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

"Runway protection zone" extends from the primary surface to a point where the approach surface is fifty feet above the runway end elevation.

"Structure" means an object, including a mobile object, constructed or installed by persons, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

"Transitional zones" extend seven feet outward for each one foot upward (7:1) beginning on each side of the primary surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of one hundred fifty feet above the airport elevation (horizontal surface).

"Tree" means any object of natural growth. (Ord. 634 §1 Exh. A (part), 1995)

17.88.040 Permitted uses within the runway protection zone. While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are below the approach surface and do not interfere with navigational aids:

- A. Agricultural operations (other than forestry or livestock farms);
- B. Golf courses (but not club houses);
- C. Automobile parking facilities (but not buildings or signs). (Ord. 634 §1 Exh. A (part), 1995)

17.88.050 Permitted uses within the airport approach safety zone. A. Aircraft landing field including accessory uses which are clearly subordinate to the primary use and which comply with all other provisions of this title;

- B. Farm use, excluding the raising and feeding of animals which would be adversely affected by aircraft passing overhead;
- C. Landscape nursery, cemetery or recreation areas which do not include building or structures;
- D. Roadways, parking areas and storage areas located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights or result in glare, or in any way impair

visibility in the vicinity of the landing approach. Approach surfaces must clear these by a minimum of fifteen feet;

- E. Pipeline;
- F. Underground utility wire;
- G. Single-family dwellings when permitted in the underlying zone, provided the landowner signs and records in the deed and mortgage records of Columbia County a hold harmless agreement and aviation and hazard easement and submits them to the airport sponsor and Scappoose planning department. (Ord. 634 §1 Exh. A (part), 1995)

17.88.060 Conditional uses. The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 17.130, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Residential uses not specifically identified as permitted in Section 17.88.050, but permitted by the underlying zone which do not conflict with the other provisions of this title;
- B. Commercial and industrial uses, when authorized in the underlying zone provided the use does not result in the following:
 - 1. Creating electrical interference with navigational signals or radio communication between the airport and aircraft,
 - 2. Difficulty for pilots in distinguishing between airport lights or others,
 - 3. Impairing visibility,
 - 4. Creating bird strike hazards,
 - 5. Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use the airport,
 - 6. Attracting large numbers of people;
- C. Buildings and uses of a public works, public service or public utility nature. (Ord. 634 §1 Exh. A (part), 1995)

17.88.070 Approval of conditional uses. A. An applicant seeking a conditional use under Section 17.88.060 shall follow procedures set forth in Chapter 17.130.

- B. The use shall conform to the requirements of the underlying zone.
- C. The Oregon Department of Transportation, Aeronautics Section shall certify in writing that the proposed use will not interfere with the operation of the aircraft landing field.
- D. The conditional use permit shall be processed in accordance with Chapter 17.130.

- E. Information accompanying the application shall also include the following:
 - 1. Property boundary lines as they relate to the airport imaginary surfaces;
 - 2. Location and height of all existing and proposed buildings, structures utility lines and roads; and
 - 3. A statement from the Oregon Department of Transportation, Aeronautics Section indicating that the proposed use will not interfere with operation of the landing facility. (Ord. 634 §1 Exh. A (part), 1995)

17.88.080 Approval of uses allowed in the underlying zones. The designated approval authority may approve any request that complies with the underlying zone when it can be shown that the proposed use or structure:

- A. Will not be located within the runway protection zone;
- B. Will not exceed the height limitations established in Federal Aviation Regulations, Part 77. Applications for structures with questionable height

shall be forwarded to the Oregon Department of Transportation, Aeronautics Section for review and comment;

C. Will not create electrical interference with navigational signals or radio communications between airport and aircraft;

D. City standards for lighting can be met without creating confusion between airport lights and the development;

E. Will not create glare;

F. Will not impair visibility;

G. Will not create bird/aircraft conflicts. (Ord. 636 §1(part), 1996: Ord. 634 §1 Exh. A (part), 1995)

17.88.090 Limitations. A. To meet the standards and reporting requirements established in FAA Regulations, Part 77, and OAR Chapter 738 Division 70, no structure shall penetrate into the airport imaginary surface.

B. No place of public assembly shall be permitted in the airport approach safety zone.

C. No structure or building shall be allowed within the runway protection zone.

D. Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.

E. No glare-producing materials shall be used on the exterior of any structure located within the airport approach safety zone.

F. In noise sensitive areas (within one thousand five hundred feet of an airport or within established noise contour boundaries of fifty-five Ldn and above for identified airports where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any development permit or development approval. In areas where the noise level is anticipated to be fifty-five Ldn and above, prior to issuance of a development permit for construction of noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than forty-five ldn. The planning and building department will review development permits for noise sensitive developments.

G. No sanitary landfills, sewage lagoons, sewage sludge disposal, open water impoundment's and other potential bird attractants shall be permitted closer than ten thousand feet to the airport runway. (Ord. 634 §1 Exh. A (part), 1995)

17.88.100 Variances. Any variance from the height and/or use requirements of this overlay zone shall be considered a major variance and shall be process in accordance with Chapter 17.134. In addition to the findings required by Chapter 17.134, the Oregon Department of Transportation, Aeronautics Section shall certify that the requested variance will not interfere with the operation of air-navigation facilities and the safe, efficient use of navigable airspace. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.89

FW FISH AND WILDLIFE ZONE

Sections:

- 17.89.010 Purpose.
- 17.89.020 Applicability of provisions.
- 17.89.060 Criteria for decision making.
- 17.89.070 Application submission requirements.

17.89.010 Purpose. The purpose of the fish and wildlife zone is to encourage the preservation of those areas identified as significant fish and wildlife habitat; to effect and accomplish the protection, and enhancement of areas which represent or reflect elements of the city's natural habitat, and social history; to safeguard the city's natural environment as embodied and reflected in such areas; and to encourage the preservation and rehabilitation of those areas that provide the citizenry a sense of natural beauty. (Ord. 634 §1 Exh. A (part), 1995)

17.89.020 Applicability of provisions. A. The fish and wildlife overlay zone shall apply to the following:

1. The Scappoose Creek waterway and tributaries, all waterways recognized by the FEMA Flood Insurance Rate Map and as adopted by the city of Scappoose; and
2. Areas containing wetlands, Chapter 17.85; and
3. Generally within thirty feet of the recognized floodway identified in the Scappoose flood regulations.

B. Within the fish and wildlife overlay zone, the provisions of this chapter apply to:

1. Any construction with or without a development permit;
2. Any fill with or without requirements for a fill permit; and
3. Any excavation, grading or earth movement.

C. No person shall alter any fish and wildlife zone area in a manner as to affect its appearance, nor may any new structure be constructed, or existing structure altered in any fashion in a fish or wildlife zone unless approved by the planning commission. (Ord. 634 §1 Exh. A (part), 1995)

17.89.060 Criteria for decision making. A. The following criteria shall be included in review of any application to which the fish and wildlife overlay is applicable:

1. After consultation with a representative of the State Fish and Wildlife Department, the planner shall identify which areas of the site are the most sensitive and susceptible to destruction, and which are the most significant;

2. After consultation with a representative of the State Fish and Wildlife Department, the planner shall analyze what the effect of proposed development will have on the fish and wildlife;

3. Determine if there will be a significantly adverse impact on the fish and wildlife resource; and

4. If the fish and wildlife habitat will be adversely impacted, the planning commission shall investigate if other development proposals could protect the fish and wildlife resource and still reasonably allow development;

5. The commission may condition the approval of an application to require protection of the habitat, or if the project is unable to mitigate habitat protection, the commission may deny the application.

B. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any structures which do not involve a change in size, use or function. (Ord. 634 §1 Exh. A (part), 1995)

17.89.070 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the necessary data or narrative which explains how the proposal conforms to purpose of the fish and wildlife zone;
2. Site plan(s) drawn to standard engineering scale; and
3. A list of the names and addresses of all persons who are property owners of record within two hundred feet of the site.

B. The development plan and narrative shall include the following information. Items may be combined on one map.

1. Existing site conditions including vicinity map showing the location of the property in relation to adjacent properties and including parcel boundaries, dimensions and gross area;

2. The location, dimensions and names of all existing and platted streets and other public ways, railroad tracks and crossings, and easements on adjacent property and on the site and proposed streets or other public ways, easements on the site;

3. The location, dimensions and setback distances of all existing structures, improvements, utility and drainage facilities on adjoining properties and existing

structures, water, sewer, improvements, utility and drainage facilities to remain on the site; and proposed structures, water, sewer, improvements, utility and drainage facilities on the site;

4. Contour lines at two-foot intervals for slopes from zero to ten percent and five-foot intervals from slopes over ten percent;

5. The drainage patterns and drainage courses on the site and on adjacent lands;

6. Potential natural hazard areas including:

- a. Floodplain areas,
- b. Areas having a high seasonal water table within zero to twenty-four inches of the surface for three or more weeks of the year,
- c. Unstable ground (areas subject to slumping, earth slides or movement). Where the site is subject to landslides or other potential hazard, a soils and engineering geologic study based on the proposed project may be required which shows the area can be made suitable for the proposed development,

- d. Areas having a severe soil erosion potential, and

- e. Areas having severe weak foundation soils;

7. The location of trees having a six-inch caliper at four feet. Only those trees that will be affected by the proposed development need to be sited accurately. Where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be required;

8. Identification information, including the name and address of the owner, developer and project designer, and the scale and north arrow;

9. A grading and drainage plan that includes:

- a. The identification and location of the benchmark and corresponding datum,

- b. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals,

- c. When requested by the planner, a statement from a registered engineer supported by factual data substantiating:

- i. The validity of the slope stabilization proposals,

- ii. That other off-site impacts will not be created,

- iii. Stream flow calculations,

- iv. Cut and fill calculations, and

- v. Channelization measures proposed,

- d. A statement from a registered engineer supported by factual data that all drainage facilities are designed in conformance A.P.W.A standards and as reviewed and approved by the public works director;

10. The method for mitigating any adverse impacts upon wetland, riparian or wildlife habitat areas. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.90

ENVIRONMENTAL PERFORMANCE STANDARDS

Sections:

- 17.90.010 Purpose.
- 17.90.020 General provisions.
- 17.90.030 Noise.
- 17.90.040 Visible emissions.
- 17.90.050 Vibration.
- 17.90.060 Odors.
- 17.90.070 Glare and heat.
- 17.90.080 Insects and rodents.
- 17.90.090 Electrical/electronic interference.

17.90.010 Purpose. The purpose of this chapter is to apply the federal and state environmental laws, rules, and regulations to all land use within the city. (Ord. 634 §1 Exh. A (part), 1995)

17.90.020 General provisions. A. In addition to the regulations adopted in this chapter, each use, activity or operation within the city shall comply with the applicable state and federal standards pertaining to noise, odor and discharge of matter into the atmosphere, ground, sewer system, or stream. Regulations adopted by the State Environmental Quality Commission pertaining to non-point source pollution control and contained in the Oregon Administrative Rules shall by this reference be made a part of this chapter.

B. Prior to issuance of a building permit, the planner may require submission of evidence demonstrating compliance with state, federal and local environmental regulations and receipt of necessary permits including but not limited to: Air Contaminant Discharge Permits (ACDP), National Pollutant Discharge Elimination System Storm Water Discharge Permit (1200-c) or Indirect Source Construction Permits (ISCP).

C. Compliance with state, federal and local environmental regulations is the continuing obligation of the property owner and operator. (Ord. 634 §1 Exh. A (part), 1995)

17.90.030 Noise. For the purposes of noise regulation, the provisions of the underlying zone and the current version of the Scappoose nuisance ordinance shall apply. (Ord. 634 §1 Exh. A (part), 1995)

17.90.040 Visible emissions. Within any zoning district, there shall be no use, operation or activity which

results in a stack or other point source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality rules for visible emissions (340-21-015 and 340-28-070) apply. (Ord. 634 §1 Exh. A (part), 1995)

17.90.050 Vibration. No vibration which is discernible without instruments at the property line of the use concerned, other than that caused by highway vehicles, trains and aircraft, is permitted in any given zoning district. (Ord. 634 §1 Exh. A (part), 1995)

17.90.060 Odors. The emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply. (Ord. 634 §1 Exh. A (part), 1995)

17.90.070 Glare and heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, which is visible at the property line shall be permitted, and:

A. There shall be no emission or transmission of heat or heated air which is discernible at the property line of the source; and

B. These regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title. (Ord. 634 §1 Exh. A (part), 1995)

17.90.080 Insects and rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard. (Ord. 634 §1 Exh. A (part), 1995)

17.90.090 Electrical/electronic interference. Within any zoning district, there shall be no use, operation or activity which results in any off-site electrical or electronic interference. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.92 ACCESSORY DWELLING UNITS

Sections:

17.92.010 Purpose.

17.92.020 Development standards.

17.92.010 Purpose. The purpose of this chapter is to establish appropriate locations, site development standards and permit requirements to allow for the provision of accessory dwelling units (ADU's) within the city. ADU's, commonly referred to as "granny flats" are a well established housing strategy that utilize an additional living unit in areas zoned for single-family use. By creating a self-contained unit with a separate entrance and kitchen from existing space in the primary dwelling; a combination of existing and newly created space; space in an existing accessory building; or, from the addition of a new accessory building, second homes can be created in association with existing or new homes. Such living space can aid in the housing and dependent care of family members, provide rental income to offset the costs of home-ownership, and add to the supply of affordable housing options available to the citizens of Scappoose. (Ord. 714 Exh. A (part), 2002)

17.92.020 Development standards. In addition to other standards of this code, ADU's shall comply with the following development standards:

A. An ADU shall meet all applicable health, fire safety and building codes, per the Oregon Structural Specialty Code;

B. ADU's shall be allowed only in conjunction with parcels containing one single-family dwelling. Only one ADU per parcel is permitted, and the primary dwelling associated with the ADU must be owner occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the principal house or of the ADU. However, in any low-density zone, the ADU must be occupied by a family member of an owner-occupied primary dwelling;

C. The ADU may be created by converting existing living area or adding floor area, or construction of a new

structure that is either attached or detached. An attached garage does not qualify as living area;

D. The maximum gross habitable floor area (GHFA) of the ADU shall not exceed fifty percent of the GHFA of the primary residence on the lot, and shall not exceed a maximum of eight hundred square feet, whichever is less. The floor area of any garage shall not be included in the total;

E. Only one entrance shall be located on the front of the primary dwelling or any portion of the primary dwelling abutting a street, unless the dwelling contained additional entrances before the accessory residential unit was created;

F. In order to maintain an architectural character similar to the primary dwelling, the accessory residential unit shall have siding and roofing materials and exterior paint colors that generally match the siding and roofing materials, and exterior paint colors of the primary dwelling;

G. The development of the ADU shall provide an additional on-site parking space if the primary dwelling has less than four on-site spaces (for example, inclusive of a garage and driveway) available before construction of the accessory unit;

H. A minimum six-foot hedge or site-obscuring fence may be required by the planning services manager to buffer a detached ADU from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas of adjacent properties. (Ord. 714 Exh. A (part), 2002)

Chapter 17.93 WIRELESS COMMUNICATIONS FACILITIES

Sections:

17.93.010 Purpose.

17.93.020 Definitions.

17.93.030 Antennas to which this chapter has no application.

17.93.040 Permitted and conditional use locations of antenna, antenna support structures, and antenna arrays to be used for wireless communication service.

17.93.050 Design standards.

17.93.060 Co-location of antennas and antenna support structures.

17.93.070 Interference with reception.

17.93.080 Antenna support structures--Removal when no longer used.

17.93.090 Application for permit for antennas, antenna arrays, antenna support structures and equipment enclosures.

17.93.010 Purpose. The purpose of this chapter is to establish appropriate locations, site development standards, and permit requirements to allow for the provision of wireless communications services to the residents of the city. Such siting is intended to occur in a manner that will facilitate the location of various types of wireless communication facilities in permitted locations consistent with the residential character of the city, and consistent with land uses in commercial and industrial areas. The prevention of the undue proliferation and associated adverse visual impacts of wireless communications facilities within the city is one of the primary objectives of this chapter. This chapter, together with the provisions of the Uniform Building Code, is also intended to assist in protecting the health, safety, and welfare of the citizens of Scappoose. (Ord. 705 §1(part), 2001)

17.93.020 Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

"Alternative antenna support structures" means roofs of buildings, provided they are twenty feet or more in height above the street grade upon

which such buildings front, church steeples, existing and replacement utility poles, flagpoles, street light standards, traffic light and traffic sign structures, billboards and commercial signs, and other similar manmade structures and devices that extend vertically from the ground to a sufficient height or elevation to accommodate the attachment of antennas at an altitude or elevation that is commercially desirable for wireless communications signal transmission and reception.

"Antenna" means a specific device used to receive or capture incoming and/or to transmit outgoing radio frequency (RF) signals, microwave signals and/or other communications energy transmitted from, or to be received by, other antennas. Antennas regulated by this chapter include omni-directional (or "whip") antennas, directional (or "panel") antennas, parabolic (or "dish") antennas, and any other devices designed for the reception and/or transmission of radio-frequency (RF) signals or other communication technologies.

"Antenna array" means two or more antenna as defined in this section.

"Antenna support structure" means a structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas at a height, altitude or elevation which is above the base of such structure. Antenna support structures include, but are not limited to, the following:

A. Lattice tower: which is a vertical support structure consisting of a network of crossed metal braces, forming a tower which may be three, four, or more sided;

B. Monopole tower: which is a vertical support structure consisting of a single vertical metal, concrete or wooden pole, pipe, tube or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

"Co-location" means utilization of a single antenna support structure, alternative antenna support structure, or an underground conduit or duct, by more than one wireless communications service provider.

"Equipment enclosure" means a small structure, shelter, cabinet, box or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.

"Facilities" means all equipment and property associated with the construction of antenna support structures, antenna arrays and antennas, including but not limited to cables, wires, conduits, ducts, pedestals, antennas of all descriptions, electronic and mechanical equipment and devices, and buildings and similar structures.

"Radio frequency (RF) engineer" means a professional engineer licensed in Oregon, with a degree in electrical engineering and demonstrated accreditation and experience to perform and certify radio frequency radiation measurements.

"Wireless communications facility" means an unstaffed facility for the transmission and/or reception of RF, microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure or an alternative antenna support structure, and one or more antennas.

"Wireless communications service" means the providing or offering for rent, sale, lease or in exchange for other consideration, of the transmittal and reception of voice, data, image, graphic and other information by the use of current or future wireless communications facilities. (Ord. 705 §1(part), 2001)

17.93.030 Antennas to which this chapter has no application. The provisions of this chapter do not apply to radio or television reception antennas, satellite or microwave parabolic antennas not used by wireless communications service providers, antennas under seventy feet and owned and

operated by a federally-licensed amateur radio station operators, to any antenna support structure or antenna lawfully in existence within the city on the effective date of this chapter, or to the facilities of any cable television company holding a valid and current franchise, or commercial radio or television broadcasting facilities. (Ord. 705 §1(part), 2001)

17.93.040 Permitted and conditional use locations of antenna, antenna support structures, and antenna arrays to be used for wireless communications service. Wireless communication antenna, antenna arrays and antenna support structures are permitted, conditionally permitted or prohibited to be located in the zones as provided in this chapter and as listed below:

A. Antenna support structures are permitted with planning commission approval of a conditional use permit, subject to the requirements of Chapter 17.130, in the C (general commercial), EC (expanded commercial), LI (light industrial), and HI (heavy industrial) zones.

B. In the R-1, R-4, MH, and A-1 zones, antennas and antenna arrays may be mounted to existing alternative antenna support structures with planning commission approval of a conditional use permit, subject to the requirements of Chapter 17.130. However, such antennas and antenna arrays shall not add more than twenty feet to the total height or elevation of such structure from the street grade. Facilities associated with antennas or antenna arrays so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building.

C. In the C, EC, LI and HI zones, antennas and antenna arrays may be mounted to existing approved antenna support structures upon review and approval by the building official. The placement of additional equipment enclosures and facilities is also permitted, subject to the requirements of this ordinance.

D. In the C, EC, LI and HI zones, antennas and antenna arrays may be mounted to existing alternative antenna support structures. However, such antennas and antenna arrays shall add not more than twenty feet to the total height or elevation of such structure from the street grade, or shall require planning commission approval of a conditional use permit, subject to the requirements of Chapter 17.130. Facilities associated with antennas or antenna arrays so mounted shall be obscured from view from all streets and immediately adjacent properties by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building.

E. Wireless facilities matrix.

WIRELESS FACILITIES

ZONE

ANTENNA SUPPORT STRUCTURES

ANTENNA ARRAY MOUNTS TO APPROVED ANTENNA SUPPORT STRUCTURES*

ANTENNA ARRAY MOUNTS TO EXISTING ALTERNATIVE ANTENNA SUPPORT STRUCTURES*

Residential

Prohibited

N/A

Less than or equal to 20 feet height added (Conditional Use)

Greater than 20 feet height added (Prohibited)

Commercial

Conditional Use

Permitted

Less than or equal to 20 feet height added (Permitted)

Greater than 20 feet height added (Conditional Use)

Industrial

Conditional Use

Permitted

Less than or equal to 20 feet height added (Permitted)

Greater than 20 feet height added (Conditional Use)

* Subject to the requirements of Chapter 17.93

17.93.050 Design standards. A. Where permitted, antenna support structures shall be constructed and installed as far away from existing buildings on adjoining land as is reasonably possible, and in no event within any required yard or set-back area or nearer than twenty-five feet to any publicly held land, residential structure or accessory building on adjoining land, or railroad right-of-way.

B. The area around the base of antenna support structures (including any equipment enclosure) is to be fenced, with a sight-obscuring fence a minimum of six feet in height. The fenced area is to be surrounded by evergreen shrubs (or a similar type of evergreen landscaping), placed within a landscaped strip a minimum of ten feet in width. In the event that placement of a proposed antenna support structure and/or equipment enclosure is located in a unique area within a subject site that would not benefit from the addition of landscaped screening, the planning services manager may require that the applicant submit a landscape plan illustrating the addition of a proportional landscape area that will enhance the subject site either at a building perimeter, parking lot or street frontage, adjacent to or within the subject site. Typically, three strand barbed wire is proposed above any sight-obscuring fence or barrier. Although barbed wire is permitted, no concertino (razor) wire shall be installed atop any fence or barrier.

C. All antenna support structures, antenna and antenna arrays, and associated facilities shall be finished in a nonreflective neutral color.

D. No antenna support structure shall be permitted to be constructed, installed or erected within one thousand feet of any other antenna support structure that is owned, operated or occupied by the same wireless communications service. Exceptions to this standard may be permitted by the planning services manager if, after reviewing evidence submitted by the service provider, he finds: (1) that a closer spacing is required in order to provide adequate wireless communication service to the subject area; and (2) the service provider has exhausted all reasonable means of co-locating on other antenna support structures that may be located within the proposed service area. An

appeal of the planning services manager's decision may be made to the planning commission provided such appeal is filed with the public works department within fifteen days of the manager's decision. Appropriate fees, as set by city council resolution, shall accompany the appeal.

E. The construction and installation of antenna support structures, antennas, antenna arrays, and the placement of antennas or antenna arrays on alternative antenna support structures, shall be subject to the requirements of the city's Building Code (UBC), Electrical Code (NEC), and National Electric Safety Code (NESC).

F. No antennas or antenna arrays, or antenna support structures shall be artificially lighted except as required by the Federal Aviation Administration or other governmental agency.

G. There shall be no commercial signs, symbols, flags, banners or other such devices or things attached to or painted or inscribed upon any antennas, antenna arrays, or antenna support structures.

H. If the application involves the placement of an antenna or an antenna array on a building that is listed in the Scappoose register of historic structures, no permit to construct, install or erect antenna support structures or equipment enclosures, or to install, mount or erect antennas or antenna arrays on existing buildings or on other alternative antenna support structures, shall be issued without the prior approval of the planning commission. (Ord. 705 §1(part), 2001)

17.93.060 Co-location of antennas and antenna support structures. A. Co-location shall be required unless demonstrated to be infeasible to the satisfaction of the planning services manager or planning commission. Evidence submitted to demonstrate such shall consist of the following:

1. That no existing antenna support structures or alternative antenna support structures are located within the geographic area which meet the applicant's engineering requirements; or

2. That existing antenna support structures and alternative antenna support structures are not of sufficient height to meet applicant's engineering requirements; or

3. That existing antenna support structures and alternative antenna support structures do not have sufficient structural strength to support applicant's proposed antennas or antenna arrays and related equipment; or

4. That an applicant's proposed antennas or antenna arrays would cause detrimental electromagnetic interference with nearby antennas or antenna arrays, or vice-versa; or

5. That there are other limiting factors, such as inadequate space for a second equipment shelter, that render existing antenna support structures or alternative antenna support structures unsuitable.

B. All wireless communications service providers shall cooperate with other wireless communications service providers in co-locating additional antennas or antenna arrays on antenna support structures and/or alternative antenna support structures. The following co-location requirements shall apply:

1. All antenna support structures shall be designed so as to not preclude co-location;

2. In the event co-location is represented to be infeasible, the city may retain a technical expert in the field of telecommunications engineering to verify if co-location at the site is not feasible, or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant;

3. A wireless communications service provider shall exercise good faith in co-locating with other providers and sharing antenna sites, provided that such shared use does not technically impair their ability to provide wireless

communications service, and provided that a provider is not utilizing co-location requirements as unfair economic advantage over providers seeking to locate within the city of Scappoose. Such good faith shall include sharing of technical information to evaluate the feasibility of co-location. In the event that a dispute arises as to whether a provider has exercised good faith in accommodating other providers, the city may require a third party technical study at the expense of either or both of such providers;

4. The city of Scappoose may deny a building or conditional use permit to the applicant for a wireless facility who has not demonstrated a good faith effort to co-locate on an existing wireless communication facility. Determination of "good faith effort" shall be the responsibility of the planning services manager. (Ord. 705 §1(part), 2001)

17.93.070 Interference with reception. No antenna or antenna array shall be permitted to be placed in a location where it will interfere with existing transmittal or reception of radio, television, audio, video, electronic, microwave or other signals, especially as regard police and emergency services operating frequencies. If, after installation of wireless communication facilities, signal interference with existing signals occurs, the applicant shall be responsible for resolving the interference, including the relocation or removal of wireless communication facilities as necessary. (Ord. 705 §1(part), 2001)

17.93.080 Antenna support structures--Removal when no longer used. Any antenna support structure that has had no antenna or antenna array mounted upon it for a period of one hundred eighty successive days, or if the antenna or antenna array mounted thereon are not operated for a period of one hundred eighty successive days, shall be considered abandoned, and the owner thereof shall remove such structure and any accompanying equipment enclosure within ninety days from the date of written notice from the City. During such ninety days, the owner may apply, and, for good reason, be granted an extension of time on such terms as the planning services manager or building official shall determine. If such structure and equipment enclosure are not so removed, the city may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal. (Ord. 705 §1(part), 2001)

17.93.090 Application for permit for antennas, antenna arrays, antenna support structures and equipment enclosures. All applications for permits for the placement and construction of wireless facilities shall be accompanied by the following:

A. Payment of all permit fees, plans check fees and inspection fees;
B. Proof of ownership of the land and/or alternative antenna support structure upon which the requested antenna, antenna array, enclosure, and/or structure is proposed, or copy of an appropriate easement, lease or rental agreement;

C. A map, drawing or aerial photo showing all existing and proposed antenna support structures within one mile of the Scappoose urban growth boundary (UGB). Information provided shall include the number of existing antenna and antenna arrays per antenna support structure, as well as the number of arrays planned for use upon a proposed new antenna support structure. Any wireless communications service provider may utilize existing mapping information possessed by the city in order to create an updated map;

D. A scaled plan and a scaled elevation view and other supporting drawings, illustrating the location and dimensions of the relevant antenna support structure, alternative antenna support structure, antenna array,

antennas, equipment enclosures and any and all other major devices and attachments;

E. Mailing labels including the names and addresses of all property owners within a two hundred foot radius of any monopole up to one hundred feet in height, and within a five hundred foot radius for any monopole exceeding one hundred feet in height. (Ord. 705 §1(part), 2001)

Chapter 17.94 MANUFACTURED HOME REGULATIONS

Sections:

- 17.94.010 Purpose.
- 17.94.020 Definitions.
- 17.94.030 Manufactured homes outside manufactured home parks.
- 17.94.040 Manufactured home park standards.
- 17.94.050 Recreational vehicles and RV park standards.
- 17.94.060 Temporary use of manufactured homes.
- 17.94.130 Structural alteration.

17.94.010 Purpose. The purpose of this chapter is to establish criteria for the placement of manufactured homes in manufactured home parks or on individual building lots within the city, to provide standards for development of recreational vehicle parks and allow the temporary use of a manufactured home under certain circumstances. (Ord. 634 §1 Exh. A (part), 1995)

17.94.020 Definitions. As used in this chapter:

"Anchoring system" means an approved system of straps, tables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured home.

"Approved" means acceptable to the city and meeting all current federal, state, or local building and installation codes.

"Driveway" means a private road giving access from access way to a manufactured home space.

"Foundation siding/skirting" means a type of wainscoting constructed of fire and weather resistant material, such as aluminum, treated pressed wood or other approved materials, enclosing the entire under carriage of the manufactured home in a fashion consistent with adjoining areas.

"Manufactured Housing Construction and Safety Standards Code" means Title VI of the Housing and Community Development Act (42 U.S.C. 5401 et sequential), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder

(including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD Rules) and regulations and interpretations of said Title by the Oregon Department of Commerce; all of which became effective for manufactured home construction on June 15, 1976.

"Manufactured home space" means a plot of ground within a manufactured home park designed for the accommodation of one manufactured home.

"Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

"Permanent perimeter enclosure" means a permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground.

"Permanent foundation" means a structure system approved by the city and following the standards set by the Oregon Department of Commerce, for transposing loads from a structure to the earth. Standards subject to additional conditions set in each manufactured home classification.

"Section" means a unit of a manufactured home at least ten body feet in width and thirty body feet in length.

"Support system" means a pad or a combination of footings piers, caps, plates and shims, which, when properly installed, support the manufactured home.

"Vehicular way" means an unobstructed way of specified width containing a drive or roadway which provides vehicular access within a manufactured home park and connects to a public street. (Ord. 634 §1 Exh. A (part), 1995)

17.94.030 Manufactured homes outside manufactured home parks. A. It is unlawful to be occupy, live in, use as an accessory structure, or store any manufactured home within the city, unless it is complies with subsection B of this section.

B. The siting of manufactured homes outside of manufactured home parks shall comply with the following regulations:

1. Dimensions. The manufactured home shall be assembled from not less than two major structural sections, and shall contain a liveable floor area of not less than one thousand square feet.

2. Hauling Mechanisms. Hauling mechanisms including wheels, axles, hitch and lights assembly shall be removed in conjunction with installation.

3. Foundation. The manufactured home shall be permanently affixed to an excavated and backfilled foundation and enclosed at the perimeter with cement, concrete

block or other materials as approved by the building inspector, such that the manufactured home is not more than twelve inches above grade; if the lot is a sloping lot, then the uphill side of the foundation shall be not more than twelve inches above grade.

4. Roof. The manufactured home shall have a minimum nominal roof pitch of at least three feet in height for each twelve feet in width, as measured from the ridge line. The roof shall be covered with shingles, shakes, or tile similar to that found on immediately surrounding single-family dwellings. Eaves from the roof shall extend at least six inches from the intersection of the roof and the exterior walls. The determination of roof covering comparability shall be made by the building inspector.

5. Exterior Finish. The manufactured home shall have exterior siding which in color, material and appearance is comparable to the predominant exterior siding materials found on surrounding dwellings. The determination of comparability shall be made by the building inspector.

6. Weatherization. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards required of single-family dwelling construction under the Oregon Building Code, as defined in ORS 455.010.

7. Off-Street Parking. A garage or carport constructed of like materials consistent with the predominate construction of immediately surrounding dwellings and sided, roofed and finished to match the exterior of the manufactured home is required.

C. Historic Districts. Manufactured homes shall be prohibited within, or adjacent to, or across a public right-of-way from a historic site, landmark or structure. (Ord. 634 §1 Exh. A (part), 1995)

17.94.040 Manufactured home park standards. A. Design of the proposed enlargement, alteration or creation of a home park manufactured home park shall be submitted to the planning commission for review. The review shall be conducted in accordance with Chapter 17.120.

B. The design for the manufactured home park shall conform to all applicable state standards established by the state of Oregon, Department of Commercial Mobile Home park standards.

C. The minimum acreage for a manufactured home park shall be two acres with a minimum frontage of one hundred feet and minimum depth of one hundred fifty feet.

D. The front and rear yard setback shall be twenty feet and side yard setback shall be ten feet, except on a corner lot the street side yards shall be twenty feet.

E. The minimum area for a manufactured home space within a park shall be two thousand five hundred square feet.17.94.040

F. One hundred square feet for each manufactured home space shall be provided for a recreational play area, group or community activities but no recreational area shall be less than two thousand five hundred square feet. No recreational area is required if the individual manufactured home spaces contain four thousand square feet or more.

G. Primary access to the park shall be from a public street. Where necessary, additional street right-of-way shall be dedicated to the city to maintain adequate traffic circulation. Primary access shall have a width of not less than thirty-six feet, of which not less than thirty-two feet shall be paved.

H. Vehicular ways shall be paved with an asphaltic material or concrete, a minimum of thirty feet in width with on-street parking and a minimum of twenty feet in width with no on-street parking, and shall be minimally constructed with four inches of one and one-half minus base rock, two inches of three-fourths-inch minus topped with two inches of asphalt concrete. Vehicular ways shall be named and marked with signs which are similar in appearance to those used to identify public streets, and a map of the vehicular ways shall be provided to the fire district, the police department and the public works department.

I. Walkways shall connect each manufactured home to its driveway. All walks must be concrete, well-drained, and not less than thirty-six inches in width.

J. Lighting for the manufactured home park shall meet the public works design standards lighting recommendations for local residential streets.

K. Driveways shall be asphalt or concrete, not less than four inches deep or two inches of asphalt on four inches of three-fourths-inch minus gravel. Driveways shall begin at a vehicular way and extend into the individual space in a manner to provide parking for at least two vehicles. They shall not be directly connected to a city street.

L. Parking spaces shall be a rectangle not less than eight feet, six inches wide and twenty feet long.

M. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or by permanent markers and all spaces shall be permanently numbered.

N. The manufactured home shall be parked on a concrete slab on appropriate footings, supports and/or stands. Tie-downs, foundations or other supports shall be in accordance with state and federal laws.

O. Each manufactured home site shall have a patio of concrete, or flagstone or similar substance not less than three hundred square feet adjacent to the manufactured home parking site.

P. Landscaping and screening shall be provided in each manufactured home park and shall satisfy the following requirements:

1. All areas in a park not occupied by paved roadways or walkways, patios, pads and other park facilities shall be landscaped;

2. Screen planting, masonry walls, or fencing shall be provided to screen objectionable views. Views to be screened include laundry drying yards, garbage and trash collection stations, and other similar uses;

3. It shall be the responsibility of the park management to see that the park landscaped areas and yards are well kept. Failure to do so shall be cause for revocation of the permit to operate the park after hearing as herein provided;

4. Landscaping plans are to be done by a landscape architect or established landscaper.

Q. Each site shall be serviced by municipal facilities such as water supply, sewers, concrete sidewalks and improved streets.

R. Prior to occupancy of the manufactured home, each site shall have a storage area space in a building having a gross floor area of at least forty-eight square feet and a minimum height of ten feet at the peak for storing the outdoor equipment and accessories necessary to residential living.

1. There shall be no outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the occupants or management of the park.

2. Except for automobiles, no storage shall be permitted except within the enclosed storage area.

3. A recreational vehicle or trailer shall not remain overnight in a manufactured home park unless it is parked in a manufactured home space or in an area specifically designated for such use. No more than one recreational vehicle or trailer will be parked at one time in a manufactured home space.

S. No manufactured home, accessory building, or other structure shall be closer than six feet to another manufactured home, accessory building, or other structure. Manufactured homes shall be a minimum of ten feet from another manufactured home.

T. No structure shall exceed twenty-five feet in height. (Ord. 711 §1 Exh. A (part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.94.050 Recreational vehicles and RV park standards. A. It is unlawful for any recreational vehicle, to be occupied, lived in or otherwise used as a residence with the city, unless it is located in a city-licensed and approved recreational vehicle park.

B. In addition to the standards of the zone in which it is located, recreational vehicle parks shall comply to the standards of this subsection. If there is a conflict between the two standards, the more restrictive standard shall apply.

1. Recreational vehicle parks shall be located on well-drained sites, and shall be located so that their drainage shall not endanger any life or property. All such parks shall be located in areas free from marshes, swamps or other potential breeding places for insects or rodents.

2. Each space shall be paved with asphalt or concrete or similar material in the area provided for a vehicle. The part of the space which is not occupied by the recreational vehicle, not intended as an access way to the vehicle or part of an outdoor patio, need not be paved provided the area is landscaped to prevent dust or mud.

3. The area of the recreational vehicle park shall contain a minimum of one acre.

4. Each recreational vehicle space shall contain a minimum of one thousand two hundred square feet. Each recreational vehicle space shall be a minimum of twenty-five feet in width and shall abut on a vehicular way with unobstructed access to a public street. Spaces shall be clearly defined.

Recreational vehicles shall be located in such spaces with a minimum of fifteen feet between each or between the vehicle and any building.

5. No recreational vehicle shall be located less than twenty-five feet from any street or highway, or so that any part of it will obstruct any drive or walkway.

6. No recreational vehicle shall be located less than twenty feet from a side or rear property line.

7. No recreational vehicle shall remain in a park unless a space is available.

8. Vehicular ways shall be provided to each space, shall be continuous, shall connect with a public street, shall have a minimum width of twenty feet, with a minimum total width of thirty-six feet for connections to a public street.

9. Paved walkways not less than three feet in width, shall be provided to service buildings.

10. Roadways shall be paved with asphalt or concrete and shall be designed to permit easy access to each recreational vehicle space.

11. Off-street parking shall be provided with a minimum of one space per recreational vehicle space. Parking spaces shall be paved with asphalt or concrete.

12. One hundred square feet for each recreational vehicle space shall be provided for a recreational play area, group or community activities but no recreational area shall be less than two thousand five hundred square feet. The recreational area shall be improved with grass, plantings surfacing or buildings suitable for recreational use.

13. No permanent additions of any kind shall be built onto, nor become part of, any recreational vehicle.

14. Wheels of trailers shall not be removed, except temporarily when in need of repairs.

15. Each recreational vehicle space shall be provided with municipal water and sewage disposal service. A recreational vehicle staying in the park shall be connected to the water and sewage service provided by the park.

16. Each recreational vehicle space shall be provided with electrical service and shall be connected to electrical service.

17. Except for the access roadway into the park, the park shall be screened on the rear and sides by a sight-obscuring fence six feet in height and the area adjacent to the street shall be fenced with a four-foot fence.

18. Screened trash receptacles shall be provided in convenient locations, and shall be large enough that there is no uncovered accumulation of trash at any time.

19. The recreational vehicle park shall be well-maintained at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.

20. The park shall provide toilets, lavatories and showers according to the Oregon Administrative Rules.

21. Open wood fires shall be prohibited. (Ord. 634 §1 Exh. A (part), 1995)

17.94.060 Temporary use of manufactured homes. A. Subject to conditions, fees and standards otherwise required by this title, under the following circumstances a temporary use permit to site a manufactured home may be issued:

1. To an applicant in the process of building a home on a building lot during the course of construction of the dwelling; such permit shall not be issued until after a building permit for the dwelling has been issued;

2. To an applicant whose own health necessitates care, and where the facts show that an unnecessary hardship would occur if not permitted to locate a manufactured home

adjacent to the residence of one who is able to provide such care or in need of such care.

B. A temporary use permit may be issued, at the discretion of the public works director, the building inspector and the planner for a period not to exceed two years. The temporary permit may be renewed for an additional one-year period upon showing of good cause, and with permission to do so.

C. At the time the temporary use permit expires, the manufactured home and all appurtenances shall be removed from the property.

D. Manufactured homes used for temporary uses shall have municipal water supply, an approved sewage disposal system, and utility connections. (Ord. 634 §1 Exh. A (part), 1995)

17.94.130 Structural alteration. Due to its integral design, any structural alteration or modification of a manufactured home after it is placed on the site must be approved by the building inspector for the city. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.96

LOTS--EXCEPTIONS AND ADDITIONAL SETBACKS

Sections:

17.96.010 Purpose.

17.96.020 Additional setback from centerline required.

17.96.040 Lots--General exceptions.

17.96.060 Exceptions to yard requirements.

17.96.080 Projections into required yards.

17.96.090 Lot area for flag lots.

17.96.010 Purpose. The purpose of this chapter is to permit or afford better light, air and vision clearance on more heavily traveled streets and on streets of substandard width, to make the location of structures compatible with the need for the eventual widening of streets by providing for additional yard setback distances. (Ord. 634 §1 Exh. A (part), 1995)

17.96.020 Additional setback from centerline required. A. Structures in any zoning district which abut certain arterial and collector streets shall be set back a minimum distance from the centerline of the right-of-way.

B. Where the street is not improved, the measurement shall be made at right angles from the centerline or general extension of the street right-of-way. The required setback distance for buildings on the following collector streets is the setback distance required by the zoning district plus twenty-eight feet measured from the centerline of the right-of-way.

Columbia Avenue from West Lane to Columbia River Hwy
Elm Street (east from 3rd street)
E.M. Watts Road
East Fourth Street
J.P. West
West First Street
Dutch Canyon Road

C. The minimum yard requirement shall be increased in the event a yard abuts a street having a right-of-way width less than required by its functional classification in the city's transportation plan and, in such case, the setback shall be not less than the setback required by the zone plus one-half of the projected road width as shown in the transportation plan.

D. In addition to the standards for access and egress included in the public works design standards, and due to the potential traffic hazards along Highway 30, the planning commission may require single access ways, frontage roads, joint parking or additional setbacks for lots that the commission determines are strategically important for reducing potential hazards. (Ord. 634 §1 Exh. A (part), 1995)

17.96.040 Lots--General exceptions. A. When two lots are under single ownership and only one principal building will be constructed on the two lots, the owner may build across the lot lines without going through the variance or property line adjustment procedures.

B. When a legal lot of record created prior to 4/4/83 (the date of adoption of Ordinance 466) is located in a residential zone and does not meet the minimum square footage of the zone, a single-family detached residence shall be allowed to be constructed on the lot, subject to approval by the planner. All other requirements of this title shall be met. When such lots are located in a zone other than residential and fail to meet the minimum standards of the zone, the lot may be occupied by a use permitted in the zone subject to all other requirements of the zone and this title.

C. When contiguous legal lots of record under the same ownership and created prior to 4/4/83 (April 4, 1983) have been consolidated to form a single tax account, the

property line adjustment procedure shall be applied to re-establish separate tax accounts. (Ord. 634 §1 Exh. A (part), 1995)

17.96.060 Exceptions to yard requirements. A. If there are dwellings on both abutting lots with yard depths less than the required depth for the zone, the depth of the yard for the intervening lot need not exceed the average depth of the yards of the abutting lots.

B. If there is a dwelling on one abutting lot with a yard of less depth than the required depth for the zone, the yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required yard depth. (Ord. 634 §1 Exh. A (part), 1995)

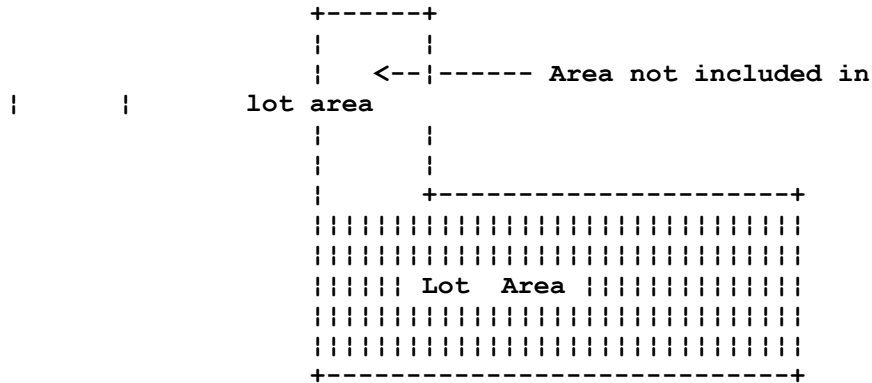
17.96.080 Projections into required yards. A. Cornices, eaves, belt courses, sills, canopies or similar architectural features may extend or project into a required yard not more than thirty-six inches provided the width of such yard is not reduced to less than three feet.

B. Fireplace chimneys may project into a required yard not more than three feet provided the width of such yard is not reduced to less than three feet.

C. Open porches, decks or balconies not more than thirty-six inches in height and not covered by a roof or canopy, may extend or project into a required rear or side yard provided such natural yard area is not reduced to less than three feet and the deck is screened from abutting properties and may extend into a required front yard not more than five feet. (Ord. 634 §1 Exh. A (part), 1995)

17.96.090 Lot area for flag lots. A. The lot area for a flag lot shall comply with the lot area requirements of the applicable zoning district.

B. The lot area shall be provided entirely within the building site area exclusive of any accessway (see figure following).



(Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.100

LANDSCAPING, SCREENING AND FENCING

Sections:

- 17.100.010 Purpose.
- 17.100.020 Applicability--Approval process.
- 17.100.030 General provisions.
- 17.100.090 Buffering and screening requirements.
- 17.100.100 Screening--Special provisions.
- 17.100.110 Fences or walls.
- 17.100.120 Required fencing of pools.
- 17.100.140 Re-vegetation.

17.100.010 Purpose. The purpose of this chapter is to establish standards for landscaping, buffering and screening in order to enhance the environment of the city through the use of plant materials as a unifying element and by using trees and other landscaping materials to mitigate the effects of the sun, wind, noise and lack of privacy. (Ord. 634 §1 Exh. A (part), 1995)

17.100.020 Applicability--Approval process. A. The provisions of this chapter shall apply to all development including the construction of new structures, major modification of existing structures as defined in Chapter 17.120, and to an application which increases the on-site parking or loading requirements or which changes the access requirements.

B. Where the provisions of Chapter 17.120 do not apply, the planner shall approve, approve with conditions, or deny a plan submitted under the provisions of this chapter. No notice is required.

C. The applicant shall submit a site plan which includes:

1. Location of underground irrigation system sprinkler heads where applicable;
2. Location and height of fences, buffers and screening;
3. Location of terraces, decks, shelters, play areas, and common open spaces;
4. Location, type, size and species of existing and proposed plant materials; and
5. A narrative which addresses soil conditions and erosion control measures. (Ord. 634 §1 Exh. A (part), 1995)

17.100.030 General provisions. A. Unless otherwise provided by the lease agreement, the owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

B. All plant growth in landscaped areas of developments shall be controlled by pruning, trimming or otherwise so that:

1. Public utilities can be maintained or repaired;
2. Pedestrian or vehicular access is unrestricted;

3. Visual clearance provisions are met. (See Chapter 17.102, Visual Clearance Areas.)

C. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or a bond has been posted with the city to insure the completion of landscaping requirements.

D. Existing plant materials on a site shall be protected to prevent erosion. Existing plant materials may be used to meet landscaping requirements if no cutting or filling takes place within the dripline of the tree. (Ord. 634 §1 Exh. A (part), 1995)

17.100.090 Buffering and screening requirements. A. Buffering and screening are required to reduce the impacts on adjacent uses which are of a different type. The owner of each proposed development is responsible for the installation and effective maintenance of buffering and screening. When different uses abut one another, buffering and screening are required. When different uses would be abutting one another except for separation by a right-of-way, buffering, but not screening, shall be required.

B. A buffer consists of an area within a required interior setback adjacent to a property line, having a width of ten feet, except where the planning commission requires additional width, and a length equal to the length of the property line of the abutting use or uses.

C. Occupancy of a buffer area shall be limited to utilities, screening, and landscaping. No buildings, accessways or parking areas shall be allowed in a buffer area.

D. The minimum improvements within a buffer area shall include:

1. One row of trees, or groupings of trees equivalent to one row of trees. At the time of planting, these trees shall not be less than ten feet high for deciduous trees and five feet high for evergreen trees measured from the ground to the top of the tree after planting. Spacing for trees shall be as follows:

- a. Small or narrow stature trees, under twenty-five feet tall or less than sixteen feet wide at maturity shall be spaced no further than fifteen feet apart;

- b. Medium sized trees between twenty-five feet to forty feet tall and with sixteen feet to thirty-five feet wide branching at maturity shall be spaced no greater than twenty-five feet apart;

- c. Large trees, over forty feet tall and with more than thirty-five feet wide branching at maturity, shall be spaced no greater than thirty feet apart.

2. In addition, at least one five-gallon shrub shall be planted for each one hundred square feet of required buffer area.

3. The remaining area shall be planted in groundcover, or spread with bark mulch.

E. Where screening is required the following standards shall apply in addition to those required for buffering:

1. A hedge of narrow or broadleaf evergreen shrubs shall be planted which will form a four-foot continuous screen within two years of planting; or

2. An earthen berm planted with evergreen plant materials shall be provided which will form a continuous screen six feet in height within two years. The unplanted portion of the berm shall be planted in lawn, ground cover or bark mulched; or

3. A five-foot or taller fence or wall shall be constructed to provide a continuous sight obscuring screen. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood or brick, or otherwise acceptable by the planner. Corrugated metal is not considered to be acceptable fencing material. Chain link fences with slats may qualify as screening when combined with a planting of a continuous evergreen hedge;

4. An evergreen hedge or other dense evergreen landscaping may satisfy a requirement for a sight obscuring fence where required. Such hedge or other dense landscaping shall be properly maintained and shall be replaced with another hedge, other dense evergreen landscaping, or a fence or wall when it ceases to serve the purpose of obscuring view; and no hedge shall be grown or maintained at a height greater than that permitted by these regulations for a fence or wall when located within a vision clearance area as set forth in Chapter 17.102, Visual Clearance Areas.

F. Buffering and screening provisions shall be superseded by the vision clearance requirements as set forth in Chapter 17.102, Visual Clearance Areas.

G. When the use to be screened is downhill from the adjoining zone or use, the prescribed heights of required fences, walls or landscape screening shall be measured from the actual grade of the adjoining property. (Ord. 634 §1 Exh. A (part), 1995)

17.100.100 Screening--Special provisions. A. If four or more off-street parking spaces are required under this title, off-street parking adjacent to a public street shall provide a minimum of four square feet of landscaping for each lineal foot of street frontage. Such landscaping shall consist of landscaped berms or shrubbery at least two feet in height, which shall be dispersed adjacent to the street as much as practical. Additionally, one tree which shall provide a canopy of at least three hundred square feet upon maturity shall be provided for each fifty lineal feet of street frontage or fraction thereof. Landscaped parking areas may include special design features which effectively screen the parking lot areas from view. These design features may include the use of landscaped berms, decorative walls, and raised planters. Landscape planters may be used to define or screen the appearance of off-street parking areas from the public right-of-way. Materials to be installed shall achieve a balance between low lying and vertical shrubbery and trees,

B. Screening of loading areas and outside storage is required according to specification in Section 17.100.090.

C. Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area, shall be screened from view by placement of a solid wood fence, masonry wall or evergreen hedge between five and eight feet in height. All refuse materials shall be contained within the screened area. (Ord. 634 §1 Exh. A (part), 1995)

17.100.110 Fences or walls. A. Fences, walls or combinations of earthen berms and fences or walls up to four feet in height may be constructed in required front yards. Rear and side yard fences, or berm/fence combinations behind the required front yard setback may be up to six feet in height without

any additional permits. Any proposed fence or fence/berm combination higher than six feet shall require a building permit. Any fence or fence/berm combination greater than eight feet in height shall require planning commission approval in addition to a building permit.

B. The prescribed heights of required fences, walls or landscaping shall be measured from the lowest of the adjoining levels of finished grade.

C. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls such as wood or brick, or otherwise acceptable by the planner. Corrugated metal is not considered to be acceptable fencing material. Fences and walls shall be in compliance with other city regulations. (Ord. 634 §1 Exh. A (part), 1995)

17.100.120 Required fencing of pools. A. Every person in possession of land within the city, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool or other outside body of water designed or used for swimming, dipping or immersion purposes having a depth of more than eighteen inches shall maintain an enclosure consisting of a fence or wall which shall discourage children climbing and is acceptable to the building inspector.

B. All gates or doors opening through such enclosure shall be equipped with self-enclosing and self-latching devices installed at least forty inches above the ground or base, designed to help and capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure required need not be so equipped.

C. Every person in possession of land within the city, either as owner, purchaser under contract, lessee, tenant or licensee, on which there is a fish pond or other decorative pool having a depth of eighteen inches or more shall construct and maintain an acceptable enclosure and securely close off or block any and all entrances thereto. An acceptable enclosure shall be one of the following:

1. A fence completely surrounding the yard where the fish pond or decorative pool is located;
2. A wire screen or cover of sufficient strength to hold a weight of at least seventy-five pounds and installed not more than six inches below the surface of the water at all times. (Ord. 634 §1 Exh. A (part), 1995)

17.100.140 Re-vegetation. A. Upon completion of construction activities, where natural vegetation or topsoil has been removed in areas not affected by the landscaping requirements and that are not to be occupied by structures, such areas are to be replanted as set forth in this section to prevent erosion.

B. Preparation for Re-vegetation. Topsoil removed from the surface is to be stored on or near the sites and protected from erosion while construction activities are underway; and

1. Such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved; and
2. After completion of such activities, the topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.

C. Methods of Re-vegetation.

1. Acceptable methods of re-vegetation include hydromulching or the planting of rye grass, barley or other seed with equivalent germination rates, and where lawn or turf grass is to be established, lawn grass seed or other

appropriate landscape cover is to be sown at not less than four pounds to each one thousand square feet of land area.

2. Other re-vegetation methods offering equivalent protection may be approved by the approval authority.

3. Plant materials are to be watered at intervals sufficient to ensure survival and growth.

4. The use of native plant materials is encouraged to reduce irrigation and maintenance demands. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.102

VISUAL CLEARANCE AREAS

Sections:

- 17.102.010 Purpose.
- 17.102.015 Applicability of provisions.
- 17.102.020 Visual clearance--Required.

17.102.010 Purpose. The purpose of this chapter is to establish standards which will assure proper sight distances at intersections in order to reduce the hazard from vehicular turning movements. (Ord. 634 §1 Exh. A (part), 1995)

17.102.015 Applicability of provisions. The provisions of this chapter shall apply to all intersections not regulated by traffic signals including private driveways. (Ord. 634 §1 Exh. A (part), 1995)

17.102.020 Visual clearance--Required. A. A visual clearance area shall be maintained on the corners of all property adjacent to an unregulated intersection of two streets, a street and a railroad, or a driveway providing access to a public or private street.

B. A clear vision area shall contain no vehicle, recreational vehicle, watercraft, parts designed to be affixed to a vehicle of any type, hedge, planting, fence, wall structure, or temporary or permanent obstruction (except for an occasional utility pole or tree), exceeding four feet in height, measured from the top of the curb, or where no curb exists, from the street center line grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed.

C. Where the crest of a hill or vertical curve conditions contribute to the obstruction of clear vision areas at a street or driveway intersection, hedges, plantings, fences, walls, wall structures and temporary or permanent obstructions shall be further reduced in height or eliminated to comply with the intent of the required clear vision area. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.104

STREET TREES

Sections:

- 17.104.010 Purpose.
- 17.104.020 Applicability.
- 17.104.030 Approval process.
- 17.104.040 Standards for street trees.
- 17.104.060 Maintenance of street trees.
- 17.104.070 Excavation approval required.

17.104.080 Penalties for damage or removal of street trees.

17.104.010 Purpose. The purpose of this chapter is to foster retention of the overall tree canopy in the city and require the planting of street trees in order to enhance the environment of the city through the use of plant materials as a unifying element and to protect the health, safety and welfare of the public by using trees to mitigate the negative effects of impervious surfaces and vehicular traffic including increased temperatures, airborne particulates, carbon dioxide, noise and stormwater runoff. (Ord. 659 §3(part), 1997)

17.104.020 Applicability. A. The provisions of this chapter shall apply to all development as defined in Scappoose Municipal Code Chapter 17.26, Definitions, except a building permit to add to or remodel an existing single-family residence.

B. All development shall be required to plant street trees. Street trees shall be defined as trees located on land lying between the property lines on either side of all streets, avenues or public rights-of-way within the city or within easements defined on a recorded plat as street tree easements.

C. All street trees required under this chapter shall be subject to the requirements of Scappoose Municipal Code Chapter 17.140 Public Land Tree Removal. (Ord. 659 §3(part), 1997)

17.104.030 Approval process. A. The applicant shall submit two copies of a site plan, drawn to an acceptable scale, which includes:

1. North arrow and map scale;
2. Name and phone number of contact person;
3. Location of all permanent structures including signs;
4. Location of right-of-way and all utilities including underground and aboveground;

5. Location, type, size and species of proposed street trees.

B. Where the development does not require approval by the planning commission, the plan shall be submitted to the planner for determination of completeness. When the plan is determined to be complete, the planner shall send one copy to the public works director for review and comment and shall allow five days for public works comments. The planner shall approve, approve with conditions, or deny a plan submitted under the provisions of this chapter within ten business days of determining the plan to be complete. No additional public notice shall be required.

C. If no other approvals are required by the project, there shall be no fee for approval of the plan required by this section.

D. If the project requires other approvals, the following shall apply:

1. Approval of the plan required by this section shall be consolidated with all other required approvals and shall be processed pursuant to the requirements of the other approvals; and
2. One percent of the total fee for all other approvals shall be placed in a dedicated fund for the planting and maintenance of street trees; and
3. All required information may be combined with plans required by other approvals.

E. Certificates of occupancy shall not be issued unless the street tree requirements have been met or a bond has been posted with the city to insure the plantings. (Ord. 659 §3(part), 1997)

17.104.040 Standards for street trees. A. Street trees shall be selected from the approved street tree list included as Appendix A of the Scappoose Comprehensive Urban Forestry Plan.

B. At the time of planting, street trees shall not be less than ten feet high for deciduous trees and five feet high for evergreen trees.

C. Spacing and minimum planting areas for street trees shall be as follows:

1. Street trees under twenty-five feet tall and less than sixteen feet wide at maturity shall be spaced no further than fifteen feet apart in planting areas containing no less than sixteen square feet of porous surface and not less than four feet wide;

2. Street trees under twenty-five feet tall and greater than sixteen feet wide at maturity shall be spaced no further than twenty feet apart in planting areas containing no less than sixteen square feet of porous surface and not less than four feet wide;

3. Street trees between twenty-five feet to forty feet tall and less than twenty-five feet wide at maturity shall be spaced no greater than twenty-five feet apart in planting areas containing no less than twenty-four square feet of porous surface and not less than six feet wide;

4. Street trees between twenty-five feet to forty feet tall and greater than twenty-five feet wide at maturity shall be spaced no greater than thirty feet apart in planting areas containing no less than twenty-four square feet of porous surface and not less than six feet wide;

5. Street trees greater than forty feet tall at maturity shall be spaced no greater than forty feet apart in planting areas containing not less than thirty-six square feet of porous surface and not less than eight feet wide.

D. Street trees located under or within ten feet of overhead utility lines shall be less than twenty-five feet tall at maturity.

E. Street trees shall be planted in accordance with the requirements of Scappoose Municipal Code Section 13.28.010(C). (Ord. 659 §3(part), 1997)

17.104.060 Maintenance of street trees. A. The adjacent owner, tenant, and their agent, if any, shall be jointly and severally responsible for the maintenance of all street trees which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and tree wells shall be kept free from refuse and debris.

B. All street trees shall be controlled by pruning to National Arborist Association Pruning Standards for Shade Trees included as Appendix B of the Scappoose Comprehensive Urban Forestry Plan.

C. Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet above street surface or eight feet above the sidewalk surface. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic-control device or sign or sight triangle at intersections as defined in Scappoose Municipal Code 17.102, Visual Clearance Areas. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements.

D. The city shall have the right to plant, prune, and otherwise maintain trees, plants and shrubs within the lines of all streets, alleys, avenues,

lanes, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

E. It is unlawful as a normal practice for any person, firm or city department to top any street tree. Topping is defined as the severe cutting back of limbs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the city manager after consultation with a registered arborist or certified forester. (Ord. 659 §3(part), 1997)

17.104.070 Excavation approval required. Written approval of the city manager is required prior to any excavation within the dripline of a street tree. (Ord. 659 §3(part), 1997)

17.104.080 Penalties for damage or removal of street trees. Any activity that results in injury, mutilation or death of a street tree is prohibited. If such injury, mutilation or death of a street tree shall occur, the cost of the repair or replacement shall be borne by the party performing the activity. The replacement value of street trees shall be determined in accordance with the latest revision of the Council of Tree and Landscape Appraisers evaluation method. (Ord. 659 §3(part), 1997)

Chapter 17.106

OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

- 17.106.010 Purpose.
- 17.106.015 Applicability of provisions.
- 17.106.020 General provisions.
- 17.106.030 Minimum off-street parking requirements.
- 17.106.040 Modification to parking requirements.
- 17.106.050 Parking dimension standards.
- 17.106.070 Loading/unloading driveways required on-site.
- 17.106.080 Off-Street loading.

17.106.010 Purpose. The purpose of these regulations is to establish parking areas that have adequate capacity and are appropriately located and designed to minimize any hazardous conditions on-site and at access points. The parking requirements are intended to provide sufficient parking in close proximity to the various uses for residents, customers and employees, and to establish standards which will maintain the traffic carrying capacity of nearby streets. (Ord. 634 §1 Exh. A (part), 1995)

17.106.015 Applicability of provisions. A. The provisions of this chapter shall apply to all development including the construction of new structures, major modification of existing structures as defined in Chapter 17.120, and to any application which increases the on-site parking or loading requirements or which changes the access requirements.

B. Where the provisions of Chapter 17.120, do not apply, the planner shall approve, approve with conditions, or deny a plan submitted under the provisions of this chapter. No notice is required.

C. The applicant shall submit a site plan which includes:

1. The location of the structures on the property and on the adjoining property;
2. The delineation of individual parking and loading spaces and their dimensions;
3. The location and dimension of the circulation area necessary to serve the spaces;
4. The location and dimension of the access point(s) to streets, to accessways and to properties to be served;
5. The location of curb cuts;
6. The location and dimensions of all landscaping, including the type and size of plant material to be used, as well as any other landscape material incorporated into the overall plan;
7. The proposed grading and drainage plans; and
8. Specifications as to signs and bumper guards. (Ord. 634 §1 Exh. A (part), 1995)

17.106.020 General provisions. A. The dimensions for parking spaces are subject to the requirements in Section 17.106.050, and as follows:

1. Nine feet wide and eighteen feet long for a standard space;
2. Eight and one-half feet wide and fifteen feet long for a compact space; and
3. In accordance with the applicable state and federal standards, at least twelve feet wide and eighteen feet long for designated handicapped parking spaces.

B. The provision and maintenance of off-street and loading spaces are the continuing obligations of the property owner:

1. No building or other permit shall be issued until plans are presented to the planner to show that property is and will remain available for exclusive use as off-street parking and loading space; and
2. The subsequent use of property for which the building permit is issued shall be conditional upon the

unqualified continuance and availability of the amount of parking and loading space required by this title.

C. Upon application the planner may rule that a use, not specifically listed in Section 17.106.030, is a use similar to a listed use and that the same parking standards shall apply. No notice need be given. The ruling on parking area requirements shall be based on findings that the following criteria are satisfied:

1. The use is similar to and of the same general type as a listed use;
2. The use has similar intensity, density and off-site impact as the listed use; and
3. The use has similar impacts on the community facilities as the listed use.

The planner shall maintain a list of approved unlisted use parking requirements which shall have the same effect as an amendment to this chapter. An updated list shall be given to the planning commission at its next regularly scheduled meeting following each determination of the parking requirements for an unlisted use. Annually, all copies of this title shall be updated to include the unlisted uses approved during the previous year.

D. At the time of erection of a new structure or at the time of enlargement or change in occupancy as defined by the Uniform Building Code, off-street parking spaces shall be as provided in accordance with Section 17.106.030; and:

1. In case of enlargement of a building or use of land existing on the date of adoption of this title, the number of parking and loading spaces required shall be based only on floor area or capacity of such enlargement; and

2. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if the elimination would result in less space than is specified in the standards of this section when applied to the entire use.

E. When an existing structure is changed in occupancy and the parking requirements for each occupancy are the same, no additional parking shall be required; and where a change in occupancy results in an intensification of use in terms of the number of parking spaces required, additional parking spaces shall be provided in an amount equal to the difference between the existing number of spaces and the number of spaces required for the more intensive occupancy.

F. Within the commercial and expanded commercial zones, owners of two 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 by more than two hours; satisfactory legal evidence shall

be presented to the planner in the form of deeds, leases or contracts to establish the joint use; and if a joint use arrangement is subsequently terminated, the requirements of this title thereafter apply to each separately.

H. Location of Required Parking.

1. Off-street parking spaces for single-family, duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwelling.

2. Off-street parking spaces for uses other than single-family or duplex residential shall be located not further than four hundred feet from the building or use they are required to serve, measured in a straight line.

I. Where several uses occupy a single structure or parcel of land or a combination of uses are included in one business, the total off-street parking spaces and loading area is the sum of the requirements of the several uses, computed separately.

J. When a building or use is planned or constructed in such a manner that a choice of parking requirements could be made, the use which requires the greater number of parking spaces shall govern.

K. Required parking spaces shall:

1. Be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only;

2. Not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use; and

3. Not be rented, leased or assigned to any other person or organization unless the required number of spaces are maintained.

M. Parking lots shall be landscaped in accordance with the requirements in Section 17.100.130.

N. All parking areas which contain over five required spaces shall be provided with one handicapped parking space. All parking provisions required by the ADA shall be met.

O. All parking spaces designated for compact vehicles shall be labeled by painting the words "COMPACT ONLY" on the parking space.

P. At least one secured bicycle rack space shall be provided for each ten parking spaces in any development. Bicycle parking areas shall not be located within parking aisles, landscape areas, or pedestrian ways.

Q. Any lights provided to illuminate any public or private parking area or vehicle sales area shall be so arranged as to reflect the light away from any abutting or adjacent residential district.

R. Required parking spaces shall be completely improved to city standards and available for use at the time of the final building inspection.

S. A plan drawn to scale, indicating how the off-street parking and loading requirement is to be fulfilled, shall accompany the request for a building permit or development application.

T. Where square feet are specified, the area measured shall be gross floor area under the roof measured from the faces of the structure, excluding only space devoted to covered off-street parking or loading.

U. Where employees are specified, the employees counted are the persons who work on the premises including proprietors, executives, professional people, production, sales, and distribution employees during the largest shift at peak season.

V. Fractional space requirements shall be counted as a whole space.

W. Parking spaces in the public street or alley shall not be eligible as fulfilling any part of the parking requirement.

X. Off street parking of any vehicle or recreational vehicle, watercraft, or parts designed to be affixed thereto, which creates a vision clearance problem or potential safety hazard shall not be allowed in required yard.

Y. Parking and loading areas shall be designed to minimize disturbances of adjacent residents by erection between the uses of a sight-obscuring fence of not less than four feet in height except where vision clearance is required. Parking spaces within a parking lot shall be designed and constructed so that no portion of a parked vehicle, including an opened door, will extend beyond the property line. (Ord. 634 §1 Exh. A (part), 1995)

17.106.030 Minimum off-street parking requirements. A. Residential Uses.

1. Single-family residence or duplex 2 spaces for each dwelling unit

2. Multifamily
a. Studio 1 space for each unit
b. 1-2 bedroom units 1.5 spaces for each unit,
c. More than 2 bedrooms 2 spaces for each unit per unit

3. Group care home facility 1 space per 3 beds

B. Civic Uses.

1. Community recreation facilities 1 space per 400 square feet of gross floor area provided

2. Cultural exhibits 1 space per 400 square feet of gross floor area

3. Day care facility 5 spaces plus 1 space per classroom

4. Hospitals 1.5 spaces per bed

5. Library 1 space for every 400 square feet

6. Lodge or church 1 space for every 6 fixed

assembly seats or every 12
feet of bench length or 1
space for every 100 square

feet of gross floor area,
whichever is greater

7. Public agency: service 1 space for every 400
or administrative square feet of gross floor
area

8. Schools

a. Preschool/ 5 spaces plus 1 space per
kindergarten classroom

b. Elementary, junior 1.5 spaces for every
high school or employee, plus 1 space for
equivalent private each 100 square feet of
or parochial school floor area in the
auditorium or other
assembly area.

c. Senior high and 5.5 spaces for each
private or parochial classroom per 1 space for
school each 28 square feet of
floor area in the
auditorium or 1 space for
each 6 fixed seats in the
auditorium or other
assembly room, whichever is
greater

f. College or business 15 spaces per 1,000 square
feet of classroom

C. Commercial Uses.

1. Administrative and 1 space for each 400 square
professional services feet of gross floor area

2. Agricultural sales 1 space per 600 square feet
and services of gross floor area, but
not less than 4 spaces for
each establishment

3. Amusement enterprises 1 space per 300 square feet
of gross floor area, plus 1
space for every 2 employees
or 1 space per 4 seats

4. Animal sales and
services

a. Auction 1 space per fifty square
feet of gross floor area

b. Grooming 1 space per 400 square feet
of gross floor area

c. Kennels 1.5 space per employee

d. Veterinary 1 space per 300 square feet
of gross floor area

5. Automotive and equipment
 - a. Cleaning 1 space per 500 square feet of gross floor area
 - b. Fleet storage 1 space per 1500 square feet
 - c. Repairs 1 space per 500 square feet of gross floor area but not less than 3 spaces for each establishment
 - d. Sales and rental 1 space per 1,000 square feet of gross lot area, but not less than 4 spaces for each establishment
6. Building maintenance service 1 space for each 500 square feet of gross floor area, but not less than 3 spaces for each establishment
7. Business equipment sales and service 1 space per 400 square feet of gross floor area
8. Construction sales and services 1 space per 1,000 square feet of gross floor area
9. Consumer repair services 1 space per 500 square feet of gross floor area
10. Convenience sales personal service 1 space per 400 square feet of gross floor area, but not less than 4 spaces per each establishment
11. Eating and drinking establishments 1 space per 120 square feet of gross floor area
12. Financial, insurance and real estate 1 space per 400 square feet of gross floor area
13. Funeral and interment services 1 space per each 4 seats or 8 feet of bench length in depth, or 1 space per 60 square feet of assembly area where there are no fixed seats
14. General retail sales 1 space for each 400 square feet of gross floor area, but not less than 4 spaces for each establishment
15. Laundry service 1 space per 500 square feet of gross floor area, but

not less than 3 spaces for
each establishment

16. Medical and dental 1 space per 400 square feet
of gross floor area
17. Participant sports
and recreation
 - a. Indoor 1 space per 300 square feet
of gross floor area
 - b. Outdoor 1 space per 100 square
feet, plus 1 space for
every 2 employees
18. Personal service 1 space per 500 square feet
facilities of gross floor
area
19. Research services 1 space per 500 square feet
20. Retail sales: 1 space for each 750 square
bulky merchandise; feet of gross floor area
i.e., furniture, not less than 4 spaces for
appliances each establishment
21. Scrap operations and 1 space per each employee,
recycling center but not less than 4 spaces
for each establishment
22. Spectator sports and 1 space per 6 seats or 12
entertainment feet of bench length
23. Transient lodging 1 space for each room plus
1 space for each 2
employees
- D. Industrial Uses.
 1. Manufacturing, 1 space per employee of the
production, largest shift
processing and
assembling
 2. Wholesaling, storage 1 space for each 1,000
and distribution square feet of gross floor
area (plus 1 space per 750
square feet of patron
serving area) but not less
than 3 spaces for each
establishment
 3. Mini-storage 1 space for every 200
square feet of gross office
floor area, plus 2 spaces
for a caretaker residence.

E. All uses providing drive-in services as defined by this title shall provide on the same site a reservoir for inbound vehicles as follows:

Reservoir Requirement

Drive-in banks	3 spaces/service terminal	
Drive-in restaurants	10 spaces/service window	
Drive-in theaters	10 percent of the theater capacity	
Gasoline service stations	3 spaces/pump	
Mechanical car washes	3 spaces/washing unit	
Parking facilities:		
Free flow entry	1 space/entry driveway	
Ticket dispense entry	2 spaces/entry driveway	
Manual ticket dispensing	8 spaces/entry driveway	
Attendant parking	10 percent of that portion capacity served	of parking
	by the driveway	

(Ord. 634 §1 Exh. A (part), 1995)

17.106.040 Modification to parking requirements. Up to twenty-five percent of the required parking spaces may be compact spaces. (Ord. 634 §1 Exh. A (part), 1995)

17.106.050 Parking dimension standards. A. Each parking space shall be accessible from a street or other right-of-way.

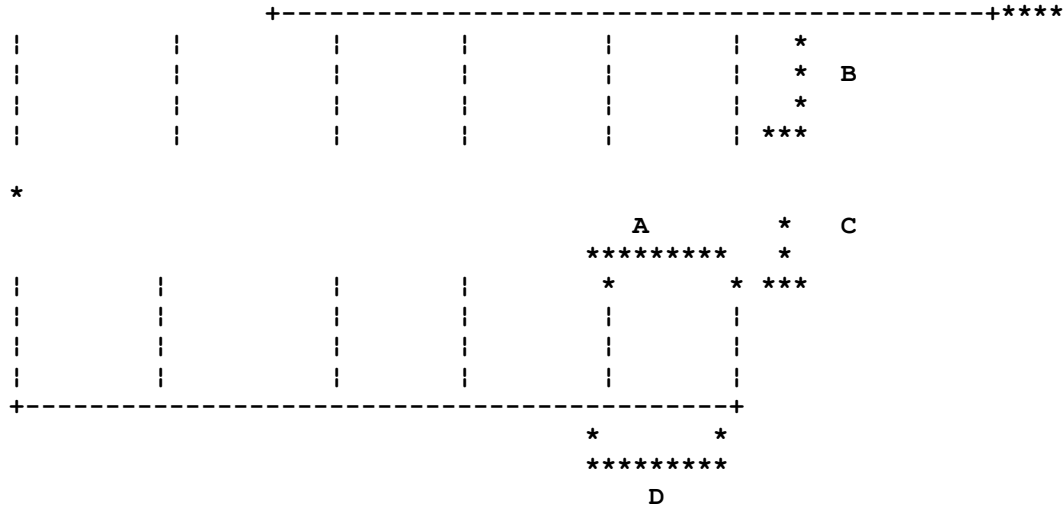
B. Minimum standards for a standard parking stall's length and width, aisle width, and maneuvering space shall be determined from the following table. Dimensions for designated compact spaces are noted in parenthesis:

Overall	
Angle from Curb	
Stall Width	
"A"	
Channel	
Depth	
"B"	
Aisle Width*	
"C"	
Curb Length	
per Stall	
"D"	
Parallel	
9'0" (8'6")	
9'0" (8'6")	
12'0" (12'0")	
23'0" (20'0")	
30o	
9'0" (8'6")	

16'10" (14'10")
 12'0" (12'0")
 18'0" (17'0")
 45o
 9'0" (8'6")
 19'1" (16'7")
 14'0" (14'0")
 12'9" (12'0")
 60o
 9'0" (8'6")
 20'1" (17'3")
 18'0" (18'0")
 10'5" (10'3")
 90o
 9'0" (8'6")
 18'0" (15'0")
 24'0" (24'0")
 9'0" (8'6")

* Aisles accommodating two direction traffic, or allowing access from both ends shall be 24 feet in width.

1. Sample Illustration:



2. The width of each parking space includes a four inch wide stripe which separates each space.

C. Excluding single-family and duplex residences, groups of more than two parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way would be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site.

D. Each parking or loading space shall be accessible from a street and the access shall be of a width and location as described in the public works design standards.

E. Except for single-family and two-family residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked using a permanent paint.

All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.

F. All areas used for the parking or maneuvering of any vehicle, boat, or trailer shall be improved with asphalt or concrete surfaces except for surplus parking or vehicular storage parking areas which may be gravel if gravel will not create adverse conditions affecting safe ingress and egress when combined with other uses of the property and all areas within public right-of-way shall be paved.

G. Access Drives.

1. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site.

2. The number and size of access drives shall be in accordance with the requirements of public works design standards.

3. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives.

4. Access drives shall have a minimum vision clearance as provided in Chapter 17.102.

H. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.

I. Except for single-family and two-family residences, off-street parking and loading facilities shall be drained to avoid flow of water across public sidewalks in accordance with specifications approved by the public works director to ensure that ponding does not occur.

J. Artificial lighting on all off-street parking facilities shall be designed to deflect all light away from surrounding residences and so as not to create a hazard to the public use road or street and shall not exceed intensities for adjacent streets as included in public works design standards.

K. All parking lots shall be kept clean and in good repair at all times. Breaks in paved surfaces shall be repaired promptly and broken or splintered wheel stops shall be replaced so that their function will not be impaired. (Ord. 634 §1 Exh. A (part), 1995)

17.106.070 Loading/unloading driveways required on-site. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school or other meeting place which is designed to accommodate more than twenty-five people at one time. (Ord. 634 §1 Exh. A (part), 1995)

17.106.080 Off-street loading. Buildings or structures to be built or altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows:

A. Every commercial or industrial use having floor area of ten thousand square feet or more, shall have at least one off-street loading space on site.

B. One additional space shall be provided for each additional thirty thousand square feet or major fraction thereof.

C. Each loading space shall have sufficient area for turning and maneuvering of vehicles on the site, and entrances and exits for the loading areas shall be provided at locations approved by the planner in accordance with the public works design standards.

D. Screening for off-street loading facilities is required in accordance with Chapter 17.100. Additional screening, buffering or setback may be required particularly for unloading of large, box-type units. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.114

SIGNS

Sections:

- 17.114.010 Purpose.
- 17.114.020 Definitions.
- 17.114.030 General sign regulations.
- 17.114.040 Signs in residential zones.
- 17.114.050 Commercial and industrial zones.
- 17.114.060 Nonconforming signs.

17.114.010 Purpose. The purpose of this chapter is to provide a safe, consistent, equitable and legal system of signing. The regulations of such factors as size, location, construction, etc., will encourage the communication of information and orientation for both visitors and citizens; provide for the effective identification and advertisement of business establishments; eliminate visual blight; and provide standards to safeguard life, health, property and public welfare. (Ord. 680 §1(part), 1998: Ord. 634 §1(part), 1995)

17.114.020 Definitions. As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

"Building frontage" means the linear frontage of a building measured along the side of the building where primary access to the structure is obtained.

"Canopy" means a structure made of cloth, metal or other material with frames affixed to the building.

"Construction sign" means any information sign which identifies the architect, engineers, contractors and other individuals or firms involved with the construction of a building, or announcing the character of the building or enterprise, which is erected during the building construction period.

"Directional sign" or "incidental sign" means small signs, less than four square feet in surface area, of a noncommercial nature, intended primarily for the convenience of the public. Included are signs designating restrooms, address numbers, hours of operation, entrances to buildings, arrows indicating directions, help wanted, public telephone, entrances, exits, etc.

"Electronic changing sign" means an electronic sign upon which the entire copy or message may appear or change from time to time upon a lamp bank, such as time and temperature displays, which by its nature and intensity is not a flashing sign.

"Flashing sign" means any sign which contains or is illuminated by a light source which produces a brilliant flash and darkness on an alternating basis, which results in a pulsating effect designed primarily to attract attention.

"Freestanding sign" means any sign set apart with no structural attachments to a building structure and is meant to include ground-mounted signs and pole signs for the purpose of these regulations.

"Grade" means the relative finished ground level within twenty feet of the sign.

"Height" or "height of sign" means the vertical distance from the average grade within twenty feet of the structure to the highest point of a sign or any vertical projection thereof, including its supporting columns.

Lighting, Indirect or Internal. "Indirect or internal lighting" means any illuminated sign constructed so that the immediate source of illumination is not visible when the sign is lighted and which does not exceed ten candle power per square foot measured at ten feet from the sign.

"Monument sign" or "ground sign" means a sign which extends no more than eight feet in height and is mounted on the ground and supported by one or more uprights, poles or braces in or upon the ground other than a pole sign as defined.

"Moving sign" means any sign which produces apparent motion or the visual image, including but not limited to illusion or moving objects, moving patterns or bands of light, expanding or contracting shapes, rotation or any similar effect of animation which is designed or operated in a manner primarily to attract attention.

"Pole sign" means a single- or multiple-faced sign extending eight or more feet above grade, supported by one or more uprights in the ground and detached from any building or structure.

"Political sign" means a sign advertising a candidate or candidates for public elective office, or a political party, or a sign urging a particular vote on a public issue decided by ballot.

"Portable sign" means any sign not meeting the anchorage requirements of the Uniform Sign Code.

"Projecting sign" means a single- or multiple-faced sign which is designed and constructed to be mounted to the wall of a building and which will extend more than twelve inches from the wall.

"Property line" means the line denoting the limits of legal ownership of property.

"Public sign" means a sign erected and maintained by the city within the public right-of-way.

"Readerboard" means a sign or part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will.

"Roof sign" means any sign erected upon, against or directly above a roof or on top of or above the parapet of a building, including a sign affixed to any equipment attached to the building.

"Sandwich ("A") board" means a double-faced sign hinged or connected at the top which is spread for stabilization and set upon the ground.

"Sign" means any medium, including its structure and component parts, other than paint on a building, which is used or intended to be used to attract attention to the subject matter for communication purposes.

"Sign area" means the surface contained within a single continuous perimeter which encloses the entire sign cabinet but excluding any support or framing structure that does not convey a message. Where signs are of a three-dimensional, round or other solid shape, the largest cross-section viewed as a flat projection shall be used for the purpose of determining the sign area. Signs visible from more than one direction or without clearly defined sign faces shall be considered as having two faces.

"Street frontage" means street(s), or public right(s)-of-way parallel to the property line used to compute the area of sign(s) intended to be located in such a manner as to have primary exposure on that street or right-of-way.

"Temporary sign" means any sign, banner, pendant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light material displayed for a period of less than ten days in any calendar year.

"Vision clearance area" means a triangular area on a lot at the intersection of two public rights-of-way, a street and a railroad, or point of vehicular access and a public right-of-way, two sides of which are lines measured from the corner intersection to a distance of twenty feet. The third

side of a triangle is a line across the corner of the lot connecting the lines of the other two sides. The vision clearance area contains no signs higher than three feet or lower than eight feet measured from the grade of the street centerline, though a single pole having a diameter of eighteen inches or less is permitted.

"Wall sign" means a single-face sign which does not extend more than twelve inches from the wall and the copy of which runs parallel to the wall to which it is attached or painted on.

"Window sign" means a sign which is applied to, attached to or located within the interior of a window. (Ord. 680 §1(part), 1998: Ord. 634 §1(part), 1995)

17.114.030 General sign regulations. A. 1. No sign governed by the provisions of this chapter shall be erected, structurally altered, or relocated without first receiving a sign permit from the city.

2. Street trees are protected by Scappoose Municipal Code Chapter 17.104, Street Trees, and Chapter 17.104, Public Land Tree Removal and the Scappoose Comprehensive Plan. Signs located more than eight feet above grade may be visually limited by street trees.

B. All signs shall comply with the following requirements and those specified by zoning district:

1. Construction shall satisfy the requirements of the current version of the Uniform Sign Code.

2. Electrical requirements for signs shall be governed by the current version of the National Electrical Code and Oregon Electrical Specialty Code Amendments.

3. Except for exempt signs, all signs shall be securely attached to a building or the ground.

4. All signs, including exempt signs, shall conform to all vision clearance requirements.

5. All signs, including exempt signs, together with their supports, braces and guys shall be maintained in a safe and secure manner.

6. All illuminated signs shall be internally or indirectly illuminated.

C. The following signs shall be exempt from the application, permit and fee requirements of this title:

1. Impermanent construction and subdivision signs not exceeding thirty-two square feet in area;

2. Public signs, directional signs, warning signs or information signs or structures required or authorized by law, or by federal, state, county or city authority;

3. Historical site plaques;

4. Official and legal notices issued by any court, public body, person or officer in performance of a public duty or in giving any legal notice;

5. Official flags of the United States of America, counties, municipalities, official flags of foreign nations, flags of internationally and nationally recognized organizations;

6. On-premises signs not readable from the public right-of-way, i.e., menu boards, etc.;

7. Political signs, provided such signs shall not exceed four square feet in area or be posted more than forty-five days before the election to which they relate and are removed within fifteen days following the election;

8. Real estate signs not exceeding four square feet in area in residential districts or thirty-two square feet in commercial or industrial districts;

9. Residential identification signs not exceeding two square feet;

10. Structures intended for a separate use such as phone booths, Goodwill containers, etc.;

11. Temporary signs not exceeding four square feet;
12. Window signs;
13. Signs carved into a building or which are a part of materials which are an integral part of the building;
14. Murals and decorative painted wall decorations without advertising or recognizable logos;
15. Decorative flags not to exceed three feet by five feet limited to one per business frontage.

D. The following signs are prohibited:

1. Flashing and moving signs;
2. Portable signs;
3. Sandwich ("A") boards exceeding four square feet in area per sign face;
4. Any signs attached to utility poles, streetlight poles, or traffic-control standard poles, street trees or otherwise located in the public right-of-way or city-maintained areas adjacent to the public right-of-way without written approval of the city manager;
5. Signs in a dilapidated or hazardous condition;
6. Signs on doors, windows or fire escapes that restrict free ingress or egress;
7. Signs which purport to be, are an imitation of, or resemble an official traffic sign or signal, could cause confusion with any official sign, or which obstruct the visibility of any traffic sign or signal;
8. Signs placed on or painted on a motor vehicle or trailer and parked with the primary purpose or providing signs not otherwise allowed by this title;
9. Balloon signs;
10. Any sign not specifically permitted by this chapter is prohibited unless specifically approved by the planning commission.

E. All freestanding signs shall comply with the following provisions:

1. One freestanding sign shall be permitted per street frontage of a lot or parcel, or each three hundred feet of street frontage of a lot or parcel, not to exceed two freestanding signs per lot or parcel.
2. Freestanding sign supports shall be placed behind the property line and no closer than ten feet to any adjacent private property line.
3. Freestanding signs may project over the public property line provided they conform to the standards established for projecting signs.

F. All projecting signs shall comply with the following provisions:

1. No projecting sign shall extend above the highest structural component of the building to which it is attached or more than twenty-four feet above grade.
2. Signs over the public right-of-way, including freestanding signs and swinging signs, shall conform to the following standards:

Clearance	Maximum Projection
Less than 8'	Not permitted
8'	1 foot
9' and above	2 feet for every foot above 8 feet in height, but no more than 9 feet.

No sign shall project within two feet of the curb line.

G. All roof signs shall comply with the following provisions:

1. All roof signs shall be installed or erected in such a manner that no support structure as visible from grade level or any abutting public right-of-way.

2. Roof signs may be erected so as to appear from all sides as a wall sign applied to an existing penthouse which appears to be a part of the building itself.

3. Roof signs shall not exceed the highest point of the building or structure. On flat roofs, the roof sign shall not exceed eight feet above the highest point of the building. In no case shall a roof sign extend more than twenty-four feet above grade.

H. All wall signs shall conform to the following provisions:

1. Wall signs may be attached flat to, or pinned away from the wall, but shall not project more than twelve inches from the wall.

2. Wall signs shall not extend above the height of the wall to which it is attached or more than twenty-four feet above grade.

I. Any sign which is not in compliance is an unlawful sign and declared to be a public nuisance.

1. The city manager may order the removal of any sign erected or maintained in violation of this title. He or she shall give ten calendar days notice in writing to the owner of such sign, or of the building structure, or premises on which the sign is located, to remove the sign or bring it into compliance. Any sign located on a utility pole, street light pole or traffic-control standard poles, street trees or otherwise located in the public right-of-way or city-maintained areas adjacent to the public right-of-way without written approval of the city manager shall be removed immediately and with no notice;

2. The city manager may order the removal of a sign immediately and without notice if, in his/her opinion, the condition of the sign is such as to present an immediate threat to the safety of the public, and is authorized to take such steps as may be necessary to remove such sign. Neither the city or any of its agents shall be liable for the sign or any damage to the sign.

3. Violation of this title shall include failure to comply with any of the provisions of this chapter or the erection, use or display or the allowing of, the permitting of, or one suffering erection, use or display of any sign not in compliance with all the provisions of this title.

4. The remedies provided in this section for violations of or failure to comply with provisions of this title shall be cumulative and shall be in addition to any other remedy provided by law. (Ord. 680 §1(part), 1998: Ord. 634 §1(part), 1995)

17.114.040 Signs in residential zones. A. R-1 and R-4 Zones.

1. One name plate or identification sign with a maximum of two faces not exceeding two square feet per face per dwelling unit is permitted. Uses allowed conditionally may be allowed to erect one sign per street frontage not to exceed thirty-two square feet.

2. Signs permitted outright in the R-1 and R-4 zones may be located anywhere on the premises; however, no freestanding sign may exceed eight feet in height or project beyond any property line. Building-mounted signs shall be wall-mounted and shall not be erected on any building roof.

B. MH and A-1 Zones.

1. Signs permitted in the R-1 and R-4 zones are permitted in the MH and A-1 zones. For multiple-family dwellings, permitted manufactured home parks and conditional uses in the MH and A-1 zones, one identification sign totaling thirty-two square feet in area shall be permitted for each street frontage.

2. Signs permitted in these residential districts may be located anywhere on the premises; however, no free-standing sign shall exceed eight feet in height or extend beyond a property line. Building-mounted signs shall be wall-mounted and shall not be erected on any building roof. (Ord. 680 §1(part), 1998: Ord. 634 §1(part), 1995)

17.114.050 Commercial and industrial zones. A. The total allowable area of all permitted signs shall be as follows:

1. A total sign area of one and one-half square feet for each lineal foot of building frontage or one square foot for each lineal foot of lot frontage, whichever results in the larger sign area. Within multiple tenant facilities, it shall be the responsibility of the property owner to determine how the total allowable sign area for the property shall be apportioned and the sign permit application shall require the signature of the property owner.

2. Freestanding or projecting signs shall be limited to one hundred fifty square feet per face. Such signs shall not exceed twenty-four feet in height from grade to the highest element.

B. Residential uses in the commercial and industrial zones shall be subject to the limits and requirements of the A-1 zone. (Ord. 680 §1(part), 1998: Ord. 634 §1(part), 1995)

17.114.060 Nonconforming signs. A. If, at the time of passage of this title, a sign does not conform to the provisions of this title, such sign may be continued and maintained in reasonable repair. This grandfather status, however, shall not prevent the city from taking action under Section 17.114.030 where a clear and immediate threat to the public safety and welfare exists.

B. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this title.

C. If a nonconforming sign is destroyed by any cause to the extent or more than fifty percent of its value, then and without further action by the planning commission, the sign shall be subject to all applicable regulations of this title. For the purpose of this title, the value of any sign shall be the estimated cost to replace the sign in kind, as determined by the building inspector. (Ord. 680 §1(part), 1998: Ord. 634 §1(part), 1995)

Chapter 17.120

SITE DEVELOPMENT REVIEW

Sections:

- 17.120.010 Purpose.
- 17.120.020 Applicability of provisions.
- 17.120.030 Administration and approval process.
- 17.120.040 Expiration of approval.
- 17.120.050 Phased development.
- 17.120.060 Bonding and assurances.
- 17.120.070 Major modification to approved plans or existing development.
- 17.120.080 Minor modification(s) to approved plans or existing development.
- 17.120.090 Application submission requirements.
- 17.120.120 Site development plans.
- 17.120.180 Approval standards.

17.120.010 Purpose. A. The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the city.

B. It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the city:

1. To implement the city's comprehensive plan and other approval standards in this title;

2. To preserve and enhance the natural beauties of the land and of the manmade environment, and enjoyment thereof;

3. To maintain and improve the qualities of and relationships between individual buildings, structures and the physical developments which best contribute to the amenities and attractiveness of an area or neighborhood;

4. To protect and ensure the adequacy and usefulness of public and private developments as they relate to each other and to the neighborhood or area; and

5. To ensure that each individual development provides for a quality environment for the citizens utilizing that development as well as the community as a whole.

C. In order to prevent the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping, it is necessary:

1. To stimulate harmonious design for individual buildings, groups of buildings and structures, and other physical developments;

2. To encourage the innovative use of materials, methods, and techniques and flexibility in building placement; and

3. To integrate the functions, appearances and locations of buildings and improvements so as to best achieve a balance between private preferences, and the public interest and welfare. (Ord. 634 §1 Exh. A (part), 1995)

17.120.020 Applicability of provisions. Site development review shall be applicable to all new developments and major modification of existing developments, as provided in Section 17.120.070 except it shall not apply to:

A. Single-family detached dwellings;

B. Manufactured homes on individual lots;

C. A duplex, which is not being reviewed as part of any other development;

D. A triplex, which is not being reviewed as part of any other development;

E. Minor modifications as provided in Section 17.120.080;

F. Any proposed development which has a valid conditional use approved through the conditional use permit application process;

G. Family day care;

H. Home occupation (Type I). (Ord. 634 §1 Exh. A (part), 1995)

17.120.030 Administration and approval process. A. The applicant for a site development review proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Applications for site development review shall be processed according to Chapter 17.164.

C. The planning commission shall approve, approve with conditions or deny any application for site development review. The planning commission shall apply the standards set forth in Section 17.120.180 when reviewing an application for site development review. (Ord. 634 §1 Exh. A (part), 1995)

17.120.040 Expiration of approval. A. Site development review approval by the planning commission shall be effective for a period one year from the date of approval.

B. The site development review approval by the planning commission shall lapse if:

1. Substantial construction of the approved plan has not been completed within a one-year period; or

2. Construction on the site is a departure from the approved plan.

C. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided, that:

1. No changes are made on the original site development review plan as approved by the planning commission;

2. The applicant can show intent of initiating construction on the site within the one year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

D. Notice of the decision shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.120.050 Phased development. A. The planning commission shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.

B. All of the following criteria shall be satisfied in order to approve a phased site development review proposal:

1. All underground utilities are constructed during the initial phase of the development and the remaining public facilities are constructed in conjunction with or prior to each phase.

2. The development and occupancy of any phase is not dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable city or district standard.

3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required by an approved development proposal. (Ord. 634 §1 Exh. A (part), 1995)

17.120.060 Bonding and assurances. A. On all projects where public improvements are required, the city may:

1. Require a bond in an amount equal to one hundred ten percent or other adequate assurances as a condition of approval of the site development plan in order to ensure the completed project is in conformance with the approved plan;

2. Approve and release such bonds upon the completion of the project. A portion of a bond may be released as components of the project are completed;

3. Require a development agreement containing the conditions of approval to be signed by the developer and recorded with Columbia County.

B. The bond shall be released when the city finds the completed project conforms to the approved site development plan and all conditions of approval are satisfied.

C. Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the planner is filed with the city, assuring such installation within six months after occupancy.

1. Security may consist of a faithful performance bond payable to the city, cash, certified check or such other assurance of completion approved by the city; and

2. If the installation of the landscaping is not completed within the six-month period, the security may be used by the city to complete the installation.

D. The applicant shall ensure that all occupants of the completed project, whether permanent or temporary, shall apply for and receive a city business license prior to initiating business. (Ord. 634 §1 Exh. A (part), 1995)

17.120.070 Major modification to approved plans or existing development.

A. An applicant may request approval of a modification to an approved plan or existing development by:

1. Providing the planner with a reproducible copy of the proposed modified site development plan; and

2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in subsection B of this section.

B. The planner shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten percent or more in dwelling unit density, or lot coverage for residential development;

2. A change in the ratio or number of different types of dwelling units;

3. A change that requires additional on-site parking in accordance with Chapter 17.106;

4. A change in the use as defined by the Uniform Building Code;

5. An increase in the height of the building(s) by more than twenty percent;

6. A change in the type and location of access ways and parking areas where off-site traffic would be affected;

7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed twenty vehicles per day;

8. An increase in the floor area proposed for a nonresidential use by more than ten percent;

9. A reduction in the area reserved for common open space and/or usable open space which reduces the open space area;

10. A reduction of project amenities where specified in the site plan:

a. Recreational facilities,

b. Screening, and/or

c. Landscaping provisions;

11. A change in land use; and

12. A modification to the conditions imposed at the time of site development review approval which are not the subject of subdivisions (B) (1) through (11) of this subsection.

C. Upon determining that the proposed modification to the site development plan is a major modification, the applicant shall submit a new site development review application and receive planning commission approval prior to any issuance of building permits. (Ord. 634 §1 Exh. A (part), 1995)

17.120.080 Minor modification(s) to approved plans or existing development. A. Any modification which is not within the description of a major modification as provided in Section 17.120.070, may be considered a minor modification.

B. An applicant may request approval of a minor modification:

1. Providing the planner with a reproducible copy of the proposed modified site development plan; and

2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in Section 17.120.070(B).

C. A minor modification shall be approved, approved with conditions or denied following the planner's review based on the finding that:

1. No title provisions will be violated; and

2. The modification is not a major modification. (Ord. 634 §1 Exh. A (part), 1995)

17.120.090 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the development permit proposal and necessary data or narrative which explains how the proposal conforms to the standards;

2. Site development plans drawn to a standard engineering scale;

3. A list of the names and addresses of all persons who are property owners of record within two hundred feet of the site.

B. The required information may be combined on one map. (Ord. 634 §1 Exh. A (part), 1995)

17.120.120 Site development plans. A. Site development plan(s), data and narrative shall include the following information, as appropriate:

1. A vicinity map showing the proposed site and surrounding properties;

2. The site size and its dimensions;

3. The location, dimensions and names of all:

a. Existing and platted streets and other public ways and easements on the site and on adjoining properties, and

b. Proposed streets or other public ways and easements on the site;

4. The location and dimension of:

a. Entrances and exits on the site,

b. Parking and traffic circulation areas,

c. Loading and services areas, where applicable,

d. Pedestrian and bicycle facilities,

e. Utilities;

5. The location, dimensions and setback distances of all:

a. Existing structures, improvements and utilities which are located on adjacent property within twenty-five feet of the site and are permanent in nature, and

b. Proposed structures, improvements, and utilities on the site;

6. Contour lines at two-foot intervals for grades zero to ten percent and five-foot intervals for grades over ten percent;

7. A grading plan that includes:

a. The identification and location of the benchmark and corresponding datum,

b. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals, and

c. When requested by the planner, a statement from a registered engineer supported by factual data substantiating:

i. The validity of the slope stabilization proposals,

ii. That other off-site impacts will not be created,

iii. Stream flow calculations,

iv. Cut and fill calculations, and

v. Channelization measures proposed;

8. The location of drainage patterns and drainage courses;

9. The location of any natural hazard areas including:

a. Floodplain areas (one hundred-year floodplain and floodway),

b. Slopes in excess of fifteen percent,

c. Unstable ground (areas subject to slumping, earth slides or movement),

d. Areas having a high seasonal water table within twenty-four inches of the surface for three or more weeks of the year,

e. Areas having a severe soil erosion potential as defined by the soil conservation service, and

f. Areas having severe weak foundation soils;

10. If applicable, the location of resource areas or site features including:

a. Wildlife habitat, and

b. Wetlands,

c. Rock outcroppings, and

d. Trees with six inches caliper or greater measured four feet from ground level;

11. The method for mitigating any adverse impacts upon wetland, riparian or wildfire habitat areas;

12. The location of areas to be landscaped including:

a. Location and height of fences, buffers and screening,

b. Location of terraces, decks, shelters, play areas, and common open spaces where applicable, and

c. Location, type and size of existing and proposed plant materials,

d. Soil conditions, and

e. Erosion control measures that will be used. (Ord. 634 §1 Exh. A (part), 1995)

17.120.180 Approval standards. The planning commission shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:

A. Provisions of all applicable chapters;

B. Buildings shall be located to preserve topography, and natural drainage; located in areas not subject to ground slumping or sliding; located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting; and oriented with consideration for sun and wind; and

C. Existing trees having a six-inch caliper or greater shall be preserved or replaced by new plantings of equal character;

D. Privacy and noise:

1. The buildings shall be oriented in a manner which protects private spaces on adjoining properties from view and noise,

2. Residential buildings shall be located on the portion of the site having the lowest noise levels, and

3. On-site uses which create noise, lights, or glare shall be buffered from adjoining residential uses;

E. Private outdoor area: residential use:

1. Structures which include residential dwelling units shall provide private outdoor areas which is screened from view by adjoining units,

2. Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least forty-eight square feet in size with a minimum width dimension of four feet, and

a. Balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit, and

b. Required open space may include roofed or enclosed structures such as a recreation center or covered picnic area,

3. Wherever possible, private outdoor open spaces should be oriented toward the sun;

F. Shared outdoor recreation areas: residential use:

1. In addition to the requirements of subsections D and E of this section, usable outdoor recreation space shall be provided in multifamily residential developments for the shared or common use of all the residents in the following amounts:

a. Studio up to and including two-bedroom units, two hundred square feet per unit, and

b. Three or more bedroom units, three hundred square feet per unit,

2. The required recreation space may be provided as follows:

a. It may be all outdoor space, or

b. It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room,

c. It may be all public or common space,

d. It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit, and

e. Where balconies are added to units, the balconies shall not be less than forty-eight square feet.

3. Shared outdoor recreation space shall be readily observable for reasons of crime prevention and safety;

G. Where landfill and/or development is allowed within and adjacent to the one hundred-year floodplain, the city may require the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain;

H. Demarcation of public, semipublic, and private spaces: crime prevention:

1. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semipublic areas and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, in order to provide for crime prevention and to establish maintenance responsibility; and

2. These areas may be defined by a deck, patio, low wall, hedge or draping vine, a trellis or arbor, a change in level or landscaping;

I. Crime prevention and safety:

1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants,

2. Interior laundry and service areas shall be located in a way that they can be observed by others,

3. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic,

4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime, and

5. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person;

J. Access and circulation:

1. The number of allowed access points for a development shall be as provided in the public works design standards.

2. All circulation patterns within a development shall be designed to accommodate emergency vehicles.

3. Provisions shall be made for pedestrian ways and bicycle ways if such facilities are shown on an adopted plan;

K. Public transit:

1. Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to existing or proposed transit route.

2. The requirements for transit facilities shall be based on:

a. The location of other transit facilities in the area,

b. The size and type of the proposal.

3. The following facilities may be required:

a. Bus stop shelters,

b. Turnouts for buses, and

c. Connecting paths to the shelters;

L. All parking and loading areas shall be designed in accordance with the requirements set forth in Sections 17.106.050 and 17.106.080, Chapter 17.102, and the public works design standards;

M. All landscaping shall be designed in accordance with the requirements set forth in Chapter 17.100;

N. All drainage plans shall be submitted to the public works director for review and approval;

O. All facilities for the handicapped shall be designed in accordance with the requirements set forth in the ADA requirements; and

P. All of the provisions and regulations of the underlying zone shall apply. (Ord. 634 §1 Exh. A (part), 1995)

17.120.180

Chapter 17.128 TEMPORARY COMMERCIAL AND INDUSTRIAL USES

Sections:

17.128.010 Purpose.

17.128.020 Application submission requirements.

17.128.030 Administration and approval.

17.128.010 Purpose. The purpose of the temporary commercial use is to permit activities that are small scale and short term in nature and generally promote celebration of specific events, holidays and seasons. Examples include, but are not limited to, fire works stands, Christmas tree sales, seasonal produce sales, farmers markets, temporary construction and leasing offices for previously approved developments and retail sidewalk sales of seasonal merchandise. (Ord. 698 §4(part), 2001)

17.128.020 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. A site plan drawn to standard scale showing the location of the temporary use, the entrance and exits from the site, areas to be designated for parking and any requested signs;

2. A letter from the property owner of record giving approval for the proposed use;

3. Payment of the temporary use permit fee.

(Ord. 711 §1 Exh. A (part), 2001; Ord. 698 §4(part), 2001)

17.128.030 Administration and approval. A. The planner may approve a temporary commercial or industrial use subject to findings based on the following criteria:

1. The temporary use promotes a specific event, season or holiday;

2. The temporary use approval shall be for no more than a single ninety continuous day period in any three hundred sixty-five day period;

3. No regulations prohibiting the activity are identified in a review of the Scappoose Municipal Code and Oregon Revised Statutes;

4. The parcel of land on which the temporary use will be located is zoned consistent with the proposed temporary use;

5. Any structures including tents and signs and any related vehicles will be removed from the site at the end of the proposed temporary use and no changes will occur to existing vegetation or land forms as a result of the temporary use;

6. Any structures including tents and signs and any related vehicles will be located on private property and outside of any right of ways that are owned by the state or the city;

7. The location of any structures including tents and signs and any related vehicles will not negatively impact parking or traffic circulation on the property or on adjacent streets;

8. The location of the sign related to the temporary use will not negatively impact the line of sight for vehicles entering and exiting the site;

9. Locates are required prior to any activity that requires may impact underground utilities including placing posts for signs or tent stakes;

B. No notice of decision is required except a letter to the applicant stating how the application satisfies the criteria in Section 17.128.030(A) and specifying the dates for which the approval is valid. A copy of this letter shall be attached to the business license application as filed in city hall.

C. Approvals issued under Scappoose Municipal Code 17.128 shall not be granted extensions of time. (Ord. 698 §4(part), 2001)

Chapter 17.130 CONDITIONAL USE

Sections:

- 17.130.010 Purpose.
- 17.130.020 Administration and approval process.
- 17.130.030 Expiration of approval.
- 17.130.040 Phased development or existing development.
- 17.130.050 Approval standards and conditions.
- 17.130.060 Major modification.
- 17.130.070 Minor modifications.
- 17.130.080 Application submission requirements.
- 17.130.090 Site development plans.

17.130.010 Purpose. The purpose of this chapter is to provide standards and procedures under which conditional use may be permitted, enlarged or altered if the site is appropriate and if other conditions can be met. (Ord. 634 §1 Exh. A (part), 1995)

17.130.020 Administration and approval process. A. The applicant of a conditional use proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Action on the application shall be in accordance with Chapter 17.162. (Ord. 634 §1 Exh. A (part), 1995)

17.130.030 Expiration of approval. A. Approval of a conditional use by the planning commission shall be void if:

1. Substantial construction of the approved plan has not been completed within a one-year period; or
 2. Construction on the site is a departure from the approved plan.
- B. The planner may, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year, provided that:
1. No changes are made on the original conditional use plan as approved by the planning commission;
 2. The applicant can show intent of initiating construction on the site within the one year extension period; and
 3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- C. Notice of the decision shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.130.040 Phased development or existing development. A. The planning commission shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for conditional use review.

B. The criteria for approving a phased conditional use review proposal is that all of the following are satisfied:

1. The public facilities shall be constructed in conjunction with or prior to each phase.
2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable city or district standard.
3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required by approved development proposal. (Ord. 634 §1 Exh. A (part), 1995)

17.130.050 Approval standards and conditions. A. The planning commission shall approve, approve with conditions, or deny an application for a conditional use based on findings of fact with respect to each of the following criteria:

1. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;
2. All required public facilities have adequate capacity to serve the proposal;
3. The applicable requirements of the zoning district are met;
4. The use is compatible with surrounding properties or will be made compatible by imposing conditions.

B. An enlargement or alteration of an existing conditional use shall be subject to the development review provisions set forth in Chapter 17.120.

C. The planning commission may impose conditions on its approval of a conditional use, which it finds are necessary to ensure the use is compatible with other use in the vicinity. These conditions may include, but are not limited to, the following:

1. Limiting the hours, days, place and manner of operation;
2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
3. Requiring additional setback areas, lot area, or lot depth or width;
4. Limiting the building height, size or lot coverage, or location on the site;
5. Designating the size, number, location and design of vehicle access points;

6. Requiring street right-of-way to be dedicated and the street to be improved;
7. Requiring landscaping, screening, drainage and surfacing of parking and loading areas;
8. Limiting the number, size, location, height and lighting of signs;
9. Limiting or setting standards for the location and intensity of outdoor lighting;
10. Requiring berming, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas;
13. Requiring the dedication of sufficient open land area for a greenway adjoining and within the floodplain when land form alterations and development are allowed within the one hundred-year floodplain. (Ord. 634 §1 Exh. A (part), 1995)

17.130.060 Major modification. A. An applicant may request approval of modification to an approved plan by:

1. Providing the planner a reproducible copy of the proposed modified conditional use plan; and
2. A narrative addressing the proposed changes as listed in subsection B of this section.

B. The planner shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten percent or more in dwelling unit density, or lot coverage for residential development;
2. A change in the ratio or number of different types of dwelling units;
3. A change that requires additional on-site parking in accordance with Chapter 17.106;
4. A change in the use as defined by the Uniform Building Code;
5. An increase in the height of the building(s) by more than twenty percent;
6. A change in the type and location of access ways and parking areas where off-site traffic would be affected;
7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed twenty vehicles per day;
8. An increase in the floor area proposed for a nonresidential use by more than ten percent;
9. A reduction in the area reserved for common open space and/or usable open space;
10. A reduction of project amenities where specified in the site plan:
 - a. Recreational facilities,
 - b. Screening, and/or
 - c. Landscaping provisions,
11. A change in land use, and
12. A modification to the conditions imposed at the time of conditional use approval which are not the subject of subdivisions (B)(1) through (11) of this subsection.

C. Upon the planner determining that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application for conditional use approval. (Ord. 634 §1 Exh. A (part), 1995)

17.130.070 Minor modifications. A. Any modification which is not within the description of a major modification as provided in Section 17.130.060 shall be considered a minor modification.

B. An applicant may request approval of a minor modification:

1. Providing the planner with three copies of the proposed modified conditional use plan; and

2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in Section 17.130.060(B).

C. The planner may approve, approve with conditions or deny a minor modification following the planner's review based on the findings that:

1. No title provisions will be violated; and

2. The modification is not a major modification.

D. Notice of the planner's decision shall be given. (Ord. 634 §1 Exh. A (part), 1995)

17.130.080 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the development permit proposal and necessary data or narrative which explains how the proposal conforms to the standards;

2. Site development plans drawn to a standard engineering scale;

3. A list of the names and addresses of all persons who are property owners of record within two hundred feet of the site; and

B. The required information may be combined on one map. (Ord. 634 §1 Exh. A (part), 1995)

17.130.090 Site development plans. A. Site development plan(s), data and narrative shall include the following information:

1. A vicinity map showing the proposed site and surrounding properties;

2. The site size and its dimensions;

3. The location, dimensions, and names of all:

a. Existing and platted streets and other public ways and easements on the site and on adjoining properties, and

b. Proposed streets or other public ways and easements on the site;

4. The location and dimension of:

a. Entrances and exits on the site,

b. Parking and traffic circulation areas,

c. Loading and services areas, where applicable,

d. Pedestrian and bicycle facilities,

e. Utilities;

5. The location, dimensions and setback distances of all:

a. Existing structures, improvements and utilities which are located on adjacent property within twenty-five feet of the site and are permanent in nature, and

b. Proposed structures, improvements, and utilities on the site,

6. Contour lines at two-foot intervals for grades zero to ten percent and five-foot intervals for grades over ten percent;

7. A grading plan that includes:

a. The identification and location of the benchmark and corresponding datum,

b. Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals, and

c. When requested by the planner, a statement from a registered engineer supported by factual data substantiating:

i. The validity of the slope stabilization proposals,

ii. That other off-site impacts will not be created,

iii. Stream flow calculations,

- iv. Cut and fill calculations, and
- v. Channelization measures proposed;
- 8. The location of drainage patterns and drainage courses;
- 9. The location of any natural hazard areas including:
 - a. Floodplain areas (one hundred-year floodplain and floodway),
 - b. Slopes in excess of fifteen percent;
 - c. Unstable ground (areas subject to slumping, earth slides or movement),
 - d. Areas having a high seasonal water table within twenty-four inches of the surface for three or more weeks of the year,
 - e. Areas having a severe soil erosion potential as defined by the Soil Conservation Service, and
 - f. Areas having severe weak foundation soils;
- 10. If applicable, the location of resource areas or site features including:
 - a. Wildlife habitat, and
 - b. Wetlands,
 - c. Rock outcroppings, and
 - d. Trees with six inches caliper or greater measured four feet from ground level;
- 11. The method for mitigating any adverse impacts upon wetland, riparian or wildfire habitat areas.
- 12. The location of areas to be landscaped including:
 - a. Location and height of fences, buffers and screening,
 - b. Location of terraces, decks, shelters, play areas, and common open spaces where applicable, and
 - c. Location, type, and size of existing and proposed plant materials,
 - d. Soil conditions, and
 - e. Erosion control measures that will be used. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.132

NONCONFORMING USES

Sections:

- 17.132.010 Continuation of nonconforming uses and structures.
- 17.132.020 Vested rights.
- 17.132.030 Alteration of nonconforming uses and structures.
- 17.132.040 Restoration of nonconforming uses.
- 17.132.050 Discontinuance.
- 17.132.060 Criteria to grant or deny.
- 17.132.070 Compliance with state and local codes.

17.132.010 Continuation of nonconforming uses and structures. Except as otherwise provided, the use of a building, structure, premises or land lawfully existing at the time of the effective date of this title or at the of a change in the official zoning maps may be continued and maintained in reasonable repair, although such use does not conform with the provisions of this title. (Ord. 634 §1 Exh. A (part), 1995)

17.132.020 Vested rights. Nothing in this title shall require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this title, provided the structure is completed within two years from the issuance of the development permit. (Ord. 634 §1 Exh. A (part), 1995)

17.132.030 Alteration of nonconforming use or structure. As used in this section, "alteration" of a nonconforming use or structure including a change in use of structure of no greater adverse impact to the neighborhood.

A. Minor Alteration. A proposal for the alteration of fifteen percent or less of the gross building volume of a nonconforming use or structure may be approved by the city manager and the planner as a minor variance.

B. Major Alteration. A proposal for the alteration greater than fifteen percent of the gross building volume of a nonconforming use may be approved by the planning commission subject to the provisions for conditional use permits. (Ord. 634 §1 Exh. A (part), 1995)

17.132.040 Restoration of nonconforming uses. The planner may approve, as an administrative variance, the restoration, reconstruction or replacement of a nonconforming use which is damaged by fire, flood, wind, earthquake or other calamity or act of God of the public enemy to an extent greater than sixty percent of the replacement value using new materials, provided that the restoration is commenced within a period of one year and is diligently prosecuted to completion. Single-family residential uses may be rebuilt by right provided such reconstruction is completed within one year of its destruction. (Ord. 634 §1 Exh. A (part), 1995)

17.132.050 Discontinuance. If a nonconforming use involving a structure or property is discontinued from active use for a period of one year, any subsequent use of the property or structure shall be a conforming use. The planning commission may, however, permit a use for which the structure was originally designed or similar thereto, through the conditional use process. (Ord. 634 §1 Exh. A (part), 1995)

17.132.060 Criteria to grant or deny. When reviewing any request to alter or restore a nonconforming use, in addition to the other applicable criteria, it shall be determined that all of the following are found to exist:

A. The nature and character of the proposed use are substantially the same as that for which the structure was originally design;

B. There is no material difference in the quality, character, intensity or degree of use;

C. The proposed use will not prove materially adverse to surrounding properties. (Ord. 634 §1 Exh. A (part), 1995)

17.132.070 Compliance with state and local codes. The granting of any such approval shall not be deemed as providing any exception to all other state and local codes such as, but not limited to, fire and life safety, building or comprehensive plan implementing ordinances. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.134

VARIANCE

Sections:

17.134.010 Purpose.

17.134.020 Administration and approval process.

- 17.134.030 Criteria for granting a variance.
- 17.134.040 Extension of approval.
- 17.134.060 Application submission requirements.

17.134.010 Purpose. The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of the land, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted. (Ord. 634 §1 Exh. A (part), 1995)

17.134.020 Administration and approval process. A. The applicant for a variance shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Minor Variance.

1. The planner may approve, approve with conditions, or deny any application for a minor variance. The planner shall apply the standards set forth in Section 17.134.030, when reviewing an application for a variance. Minor variances are small changes from the title requirements and which will have a minor impact on adjacent property owners. Specifically, minor variances include:

a. Deviation from any minimum property development standard or equal area by not more than ten percent;

b. Expansion of a conditional or nonconforming use by not more than fifteen percent of the gross building volume.

2. Upon receipt of the application form and payment of fifty percent of the usual application fee for a variance, the planner shall render a decision within ten working days, or the decision may be deferred to the planning commission. Additional information may be requested to arrive at a decision; and, if so, the decision shall be rendered within ten working days following the submission of such information.

3. Should a minor variance be granted by administrative action, a notice of the variance decision and reasoning shall be mailed to all property owners abutting the subject property, exclusive of any public rights of way, soliciting comments or objections. If any written objections to the proposed variance are received within ten working days of the mailing, a public hearing shall be required in accordance with Chapter 17.162. If no objections to the variance are received within the ten day period, the variance shall become effective at the end of that period.

C. The planning commission shall approve, approve with conditions, or deny any application for a major variance. The planning commission shall apply the standards set forth in Section 17.134.050 when reviewing an application for a variance. Specifically, a major variance is any variance not defined as a minor variance. (Ord. 634 §1 Exh. A (part), 1995)

17.134.030 Criteria for granting a variance. The planning commission or planner shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied:

A. The proposed variance will not be materially detrimental to the purposes of this title, be in conflict with the policies of the comprehensive plan, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;

B. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which

conditions are a result of the lot size, shape or topography or other circumstances over which the applicant has no control;

C. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

D. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms, or parks will not be adversely affected any more than would occur if the development were located as specified in the title; and

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship. (Ord. 634 §1 Exh. A (part), 1995)

17.134.040 Extension of approval. A. Approval of a variance shall be void if:

1. Substantial construction of the approved plan has not been completed within a one-year period; or

2. Construction on the site is a departure from the approved plan.

B. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided, that:

1. No changes are made on the original approved variance;

2. The applicant can show intent of initiating construction on the site within the one year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

C. Notice of the decision regarding the extension shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.134.060 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the variance proposal and necessary data or narrative which explains how the proposal conforms to the standards;

2. For major variances, a list of the names and addresses of all persons who are property owners of record within two hundred feet of the site;

3. If applicable, a copy of all existing and proposed restrictions or covenants;

4. Site development plans drawn to a standard engineering scale and including the following information:

a. The proposed site and surrounding properties,

b. The location, dimensions and names of all existing streets,

c. The location and dimensions of:

i. Entrances and exits on the site,

ii. Parking and circulation areas,

iii. Loading and services areas,

iv. Pedestrian and bicycle circulation,

v. Outdoor common areas,

vi. Above ground utilities,

vii. Existing landscaping;

d. The location, dimensions and setback distances of all existing structures, improvements and utilities which are located within twenty-five feet of the sites and are on adjoining property, and

e. Proposed structures, improvements, landscaping and utilities on the site.

B. In the case of a request for a variance to the building height provisions, the following additional information is required:

1. An elevation drawing of the structure and the proposed variance; and
 2. A drawing(s) to scale showing the impact on adjoining properties.
- C. The required information may be combined on one map. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.136 ANNEXATIONS

Sections:

- 17.136.010 Purpose.
- 17.136.020 Policy.
- 17.136.030 Administration and approval process.
- 17.136.040 Approval standards.
- 17.136.050 Application submission requirements.
- 17.136.060 Annexation initiated by city.

17.136.010 Purpose. The purpose of this chapter is to enact policies relating to annexation and petitions for annexation of property to the city, to determine the process and criteria by which annexations will be reviewed and approved, to provide for city review of all annexation requests for a determination of the availability of facilities and services as related to the proposal, and maximize citizen involvement in the annexation review process. (Ord. 691 §1(part), 1999: Ord. 634 §1 Exh. A (part), 1995)

17.136.020 Policy. Annexations shall be considered on a case-by-case basis, taking into account the goals and policies in the Scappoose comprehensive plan, long range costs and benefits of annexation, statewide planning goals, this title and other ordinances of the city and the policies and regulations of affected agencies' jurisdictions and special districts.

A. It is the city's policy to encourage and support annexation where:

1. The annexation complies with the provisions of the Scappoose comprehensive plan;
2. The annexation would provide a logical service area, straighten boundaries, eliminate or preclude islands of unincorporated property, and contribute to a clear identification of the city;
3. The annexation would benefit the city by addition to its revenues of an amount that would be at least equal to the cost of providing services to the area;
4. The annexation would be clearly to the city's advantage in controlling the growth and development plans for the area.

B. It is the city's policy to discourage and deny annexation where:

1. The annexation is inconsistent with the provisions of the Scappoose comprehensive plan;
2. The annexation would cause an unreasonable disruption or distortion of the current city boundary or service area;
3. The annexation would severely decrease the ability of the city to provide services to an area either inside or outside of the city;
4. Full urban services could not be made available within a reasonable time. (Ord. 691 §1(part), 1999: Ord. 634 §1 Exh. A (part), 1995)

17.136.030 Administration and approval process. A. The approval process for annexations to the city shall be as provided in ORS 222.

B. Notwithstanding the statutory provisions regarding whether an election is held as provided by ORS 222.111, 222.120 and 222.170, following approval by the city council, the city shall submit to the electors of the city any proposal for annexation. This paragraph shall not affect statutory provisions regarding submission of annexation proposals to the electors of the territory to be

annexed, or the provisions for health hazard annexations pursuant to ORS 222.840 to 222.915.

C. The application for an annexation required by this chapter shall be filed with the city, including required fees, on forms provided by the city. Upon receipt of a completed request for annexation, the planner shall prepare a staff report and recommendation describing compliance with the policies and criteria required by this and other relevant ordinances, and upon a recommendation to the city council pertaining to the annexation request The planning commission shall hold a public hearing in accordance with the provisions of Chapter 17.162 and shall make a recommendation to the city council. The city council shall hold a public hearing in accordance with the provisions of Chapter 17.162. Following the public hearing, the council shall make a final decision on the annexation request. The final action on a proposed annexation may be approval, approval with modification or denial. If the council approves an annexation, required by code section 17.136.030 (B), the annexation shall be submitted to the electorate.

D. The city council's decision is the last discretionary decision in the process. If an election is required, certifying the election after votes are counted is not a discretionary decision. The annexation ordinance shall be effective on the date the election is certified.

E. When an election is required by Section 17.136.030 (B), annexations approved by the council shall be placed on the ballot at the next available primary or general election, whichever occurs first, unless the applicant has submitted a written request for a special election. Special elections shall occur not less than ninety days from the time of council approval.

F. At the time of request, applicants submitting a written request for a special election shall be required to pay a deposit equivalent to the cost of the election as estimated by the county election clerk. Deposit amounts in excess of actual election costs will be refunded, and deficiencies in deposits must be paid by the applicant within thirty days of the election and prior to issuance of any further permits or approvals. (Ord. 691 §1(part), 1999: Ord. 634 §1 Exh. A (part), 1995)

17.136.040 Approval standards. A. The decision to approve, approve with modification or deny, shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area;
2. The impact upon public services which include but are not limited to police and fire protection, schools and public transportation to the extent that they shall not be unduly compromised;
3. The need for housing, employment opportunities and livability in the city and surrounding areas;
4. The location of the site in relation to efficient provision of public facilities, services, transportation, energy conservation, urbanization and social impacts. (Ord. 691 §1(part), 1999: Ord. 634 §1 Exh. A (part), 1995)

17.136.050 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the annexation area, conceptual development plan(s) and necessary data or narrative (number to be determined at the pre application conference), which explains how the annexation conforms to the standards:
 - a. Sheet size for an annexation area, conceptual development plan and required drawings shall not exceed eighteen inches by twenty-four inches, and
 - b. The scale of the required drawings shall be an engineering scale.
2. A list of the names and addresses of all who are property owners of record and whose property is within two hundred feet of the site;

B. The required information may be combined and does not have to be placed on separate maps.

C. The annexation area plan, data and narrative shall include the following:

1. A map to a engineering scale of the area to be annexed which includes the surrounding area;
2. A map of the area to be annexed including adjacent city territory as shown on the Columbia County assessor map;
3. A legal description of the annexation area including a map;
4. A statement of the availability, capacity and status of existing water, sewer, drainage, transportation, park, police and fire service, and school facilities;
5. A statement of the increased demand for such facilities to be generated by any proposed development within the annexation area; and
6. A conceptual development plan which includes:
 - a. The type of intensities (density) of the proposed land use,
 - b. Transportation corridors,
 - c. Significant natural features, and
 - d. Adjoining land uses.

(Ord. 691 §1(part), 1999: Ord. 634 §1 Exh. A (part), 1995)

17.136.060 Annexation initiated by city. The city council may initiate an annexation on its own motion. In that event, the standards and procedures of this chapter, including zone change procedures, shall apply as if the annexation was initiated by a property owner, except that no filing fee shall be required. (Ord. 691 §1(part), 1999: Ord. 634 §1 Exh. A (part), 1995)

17.136.070 Zoning upon annexation. Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification as shown in the table below. The zoning designation shown on the table below is the city's zoning district which most closely implements the city's comprehensive plan map designation.

Comprehensive Plan
Zoning Classification
SR
R-1, Low Density Residential
GR
R-4, Moderate Density Residential
MH
MH, Manufactured Home Residential
C
Expanded Commercial
I
Light Industrial
(Ord. 691 §1(part), 1999)

17.136.080 Annexation of non-conforming uses. When a nonconforming use (including a billboard) is annexed into the city, the applicant shall provide a schedule for the removal of the non conforming use for the planning commission and city council. At the time of approval of the annexation, the city council may add conditions to ensure the removal of the non conforming use during a reasonable time period. The time period may vary from one year to ten years at the discretion of the city council. (Ord. 691 §1(part), 1999)

Chapter 17.140 PUBLIC LAND TREE REMOVAL

Sections:

- 17.140.010 Purpose.
- 17.140.020 Permit required/applicability.
- 17.140.030 Criteria for issuance of permits.
- 17.140.035 Expiration of approval.
- 17.140.040 Emergencies--Authority.
- 17.140.050 Application submission requirements.

17.140.010 Purpose. The city is now benefitted by large numbers of trees which add to the aesthetic beauty of the community, help clean the air and provide visual and noise barriers. The purpose of this chapter is to prohibit the unnecessary removal of trees on publicly owned land without opportunity for public input while allowing removal of tree(s) that may cause a hazard. (Ord. 634 §1 Exh. A (part), 1995)

17.140.020 Permit required/applicability. A. This provision shall apply to all publicly owned or maintained properties.

B. No person shall cut a tree(s) upon these properties without first obtaining a permit from the city and approval from the planning commission.

C. For the purpose of this chapter, tree removal shall not include tree topping and pruning under power and utility lines, or pruning of trees located with visual clearance areas.

D. For the purpose of this chapter, tree removal permits shall be required for all trees having a trunk six inches or more in diameter, measured four feet above the ground level. (Ord. 634 §1 Exh. A (part), 1995)

17.140.030 Criteria for issuance of permits. The following criteria shall be used by the planning commission for the issuance or nonissuance of a tree cutting permit. To issue a permit, the following criteria must be satisfied:

A. The trees are diseased and there is a danger the trees may fall on existing or proposed structures or interfere with utility services or traffic safety;

B. There is not a need to retain the tree(s) due to the topography of the land because there will be no effect from the tree removal on erosion, soil retention, stability of earth, flow of surface waters;

C. There is not a need to retain the tree(s) to protect nearby trees as windbreaks, and as a desirable balance between shade and open space;

D. The applicant's proposals, if any, to plant new trees or vegetation as a substitute for the tree(s) to be cut, will restore the aesthetic value of the removed trees. (Ord. 634 §1 Exh. A (part), 1995)

17.140.035 Expiration of approval. A. Approval of a tree removal permit shall be effective for a six-month period.

B. The planning commission may renew the permit for a maximum period up to one year upon finding that:

1. All of the conditions of approval have been satisfied;
2. There has been no change in the original application approved by the planning commission;
3. There have been no changes to the applicable comprehensive plan policies on which the approval was based;
4. The applicable approval criteria in Section 17.140.030 are satisfied;

5. The applicant certifies that he/she is complying with the conditions of approval and agrees to comply in the future.

C. The planner may revoke a tree removal permit if the conditions are not satisfied as required by the original permit. (Ord. 634 §1 Exh. A (part), 1995)

17.140.040 Emergencies--Authority. In the event of emergency conditions requiring the immediate cutting or removal of trees in order to avoid damage to persons or property, a permit shall not be required. However, only the trees constituting an actual threat to life or property shall be removed without the issuance of a permit. The planner shall be notified the number of trees removed and their location. The applicant shall be required to complete necessary slope stability measures as outlined by Chapter 17.86 if site warrants. (Ord. 634 §1 Exh. A (part), 1995)

17.140.050 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by the site plan and narrative.

B. The site plan and narrative shall include:

1. The specific location of the property by address and assessor map number and tax lot;
2. The number, size, species and location of the trees to be cut;
3. The time and method of cutting or removal and the reason for the tree removal;
4. Information concerning any proposed landscaping or planting of new trees to replace the cut trees; and
5. A narrative as to how the criteria in Section 17.150.030 are satisfied. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.141 Heritage trees

Sections:

- 17.141.010 Purpose.
- 17.141.020 Heritage tree designation.
- 17.141.030 Removal of heritage tree designation.
- 17.141.040 Maintenance of heritage trees.
- 17.141.050 Removal of hazardous heritage trees.

17.141.010 Purpose. The city is now benefitted by trees which because of their age, size, type, historical association or horticultural value are of special importance to the city. The purpose of this chapter is to provide an opportunity for public and private entities to identify and protect these trees. (Ord. 695 §1(part), 2000)

17.141.020 Heritage tree designation. The urban forestry advisory board shall prepare or cause to be prepared as soon as possible after passage of this ordinance and annually thereafter, a list of trees within the city, which because of their age, size, type, historical association or horticultural value are of special importance to the city. No tree standing on private property shall be designated a "heritage tree" without the consent of the property owner. The consent of the property owner shall bind all successors, heirs and assigns. Upon recommendation of the urban forestry advisory board and consent of the property owner, the city manager may designate such a tree a "heritage tree", provided that the tree's health, aerial space and open ground area for the root system have been certified as sufficient by a qualified arboriculturist. (Ord. 695 §1(part), 2000)

17.141.030 Removal of heritage tree designation. Upon recommendation of the urban forestry advisory board, the city manager may remove the designation of any tree as a heritage tree if the urban forestry advisory board finds that such designation is no longer appropriate. (Ord. 695 §1(part), 2000)

17.141.040 Maintenance of heritage trees. When a tree is designated as a heritage tree, a plaque so signifying may be placed near the tree. The public works department shall maintain all heritage trees located on city property or on public rights of way within the city. It shall be the duty of every owner of property upon which a heritage tree is standing to maintain that tree. The urban forestry advisory board may give advice and assistance to the property owners regarding proper maintenance of heritage trees. (Ord. 695 §1(part), 2000)

17.141.050 Removal of hazardous heritage trees. For purposes of tree removal, all heritage trees, whether located on public or private land, shall be subject to the limitations and requirements of the Scappoose Municipal Code 17.140, Public land tree removal. (Ord. 695 §1(part), 2000)

Chapter 17.142 HOME OCCUPATIONS

Sections:

- 17.142.010 Purpose.
- 17.142.020 Applicability and exemptions.
- 17.142.030 Nonconforming uses.
- 17.142.050 General approval criteria and standards.
- 17.142.060 Permit procedures.
- 17.142.070 Type II applications.
- 17.142.090 Revocation and expiration of home occupation permits.
- 17.142.100 Action regarding complaints.
- 17.142.130 Business license required.

17.142.010 Purpose. It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters and to establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents. (Ord. 634 §1 Exh. A (part), 1995)

17.142.020 Applicability and exemptions. A. No person shall carry on a home occupation, or permit such use to occur on property which that person owns or is in lawful control of, contrary to the provisions of this chapter.

B. Exemptions from the provisions of this chapter are:

1. Garage sales (limited to twelve days per year);
2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;
3. Hobbies which do not result in payment to those engaged in such activity;
4. Proven nonconforming home occupations as per Section 17.142.030.

C. Type I Home Occupations. A Type I home occupation shall exhibit no evidence that a business is being conducted from the premises. A Type I home occupation shall not permit:

1. Exterior signs which identify the property as a business location;
2. Clients or customers to visit the premises for any reason;
3. Exterior storage of materials.

D. Type II Home Occupations. Property on which a Type II home occupation is located may show evidence that a business is being conducted from the premises. The following is allowed for Type II home occupations:

1. One nonilluminated sign, not exceeding 1.5 square feet, which shall be attached to the residence or accessory structure or placed in a window;
2. No more than six daily customers or clients. Customers and clients may not visit the business between the hours of ten p.m. and eight a.m. and shall not generate excessive traffic or monopolize on-street parking;
3. Storage of materials, goods and equipment which is screened entirely from view by a solid fence. Storage shall not exceed five percent of the total lot area and shall not occur within the front yard or the required side yard setback. Any storage of materials, goods, and equipment shall be reviewed and approved by the public works director, chief of police and fire chief. (Ord. 634 §1 Exh. A (part), 1995)

17.142.030 Nonconforming uses. A. Ongoing home occupations may be granted nonconforming status, provided that they were:

1. Permitted under county authority prior to annexation to the city and have been in continuous operation since initial approval;
2. Permitted under city authority prior to adoption of this title and have since been in continuous operation.

B. A nonconforming situation is further governed by Chapter 17.132. Such use may continue until the use is expanded or altered so as to increase the level of noncompliance with the present title. The burden of proving a home occupation's nonconforming status rests with the property owner or tenant.

C. Home occupations without city or county approval which cannot prove nonconforming status shall be considered in violation of this chapter and shall cease until the appropriate approvals have been granted. (Ord. 634 §1 Exh. A (part), 1995)

17.142.050 General approval criteria and standards. All home occupations shall observe the following criteria:

A. There shall be no outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises.

B. There shall be no more than three deliveries per week to the residence by suppliers.

C. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation. Home occupations shall observe the provisions of Chapter 17.090.

D. The home occupation shall be operated entirely within the dwelling unit or a conforming accessory structure. The total area which may be used in the accessory building for either material product storage and/or the business activity shall not exceed six hundred square feet. Otherwise, the home occupation and associated storage of materials and products shall not occupy more than twenty-five percent of the combined residence and accessory structure gross floor area. The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health, and housing codes.

E. A home occupation shall not make necessary a change in the Uniform Building Code use classification of a dwelling unit. Any accessory building that is used must meet Uniform Building Code requirements.

F. More than one business activity constituting two or more home occupations may be allowed on one property only if the combined floor space of the business activities does not exceed twenty-five percent of the combined

gross floor area of the residence and accessory structure. Each home occupation shall apply for a separate home occupation permit, if required as per this chapter, and each shall also have separate business license certificates.

G. There shall be no storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals which are engaged in home occupations shall make available to the fire marshal for review the material safety data sheets which pertain to all potentially toxic and/or flammable materials associated with the use.

H. The following uses shall not be allowed as home occupations:

1. Auto-body repair and painting;
2. Ongoing mechanical repair conducted outside of an entirely enclosed structure;
3. Junk and salvage yards;
4. Storage and/or sale of fireworks or firearms.

I. There shall be no exterior storage of vehicles of any kind used for the business except that one commercially licensed vehicle may be parked outside of a structure. (Ord. 634 §1 Exh. A (part), 1995)

17.142.060 Permit procedures. A. Type I. A person wishing to engage in a Type I home occupation must be a principal occupant of the property, agree to abide by the provisions of this chapter, and acquire an annual business license. The planner shall determine whether an application for a business license also requires an application for a Type II home occupation. Type I home occupations do not require a separate application from the business license.

B. Type II. A person wishing to engage in a Type II home occupation must be a principal occupant of the property, agree to abide by the provisions of this chapter, acquire an annual business license certificate and receive planning commission approval for a Type II home occupation.

1. The planning commission shall approve, approve with conditions, or deny any application for a Type II home occupation. The decision to approve, approve with conditions, or deny an application for a Type II home occupation permit shall be made by the planning commission upon findings of whether or not the proposed use:

- a. Is in conformance with the standards contained in this chapter;
- b. Will be subordinate to the residential use of the property;
- c. Is undertaken in a manner that is not detrimental nor disruptive in terms of appearance or operation to neighboring properties and residents;
- d. All Type II home occupations are subject to Chapter 17.130.

(Ord. 634 §1 Exh. A (part), 1995)

17.142.070 Type II applications. An application for a Type II home occupation shall be made on forms provided by the planner and shall be accompanied by:

A. One copy of the applicant's statement or narrative which explains how the proposal conforms to the approval criteria in Sections 17.142.050;

B. A site plan of the property drawn to scale with a north arrow indicated. The site plan shall show all major features of the property including buildings, major vegetation, access for public streets, sidewalks, etc.;

C. One floor plan of all structures on the property which are to be used for the home occupation(s);

D. One title transfer instrument;

E. One assessor's map;

F. Property owner's signature(s) or written authorization. (Ord. 634 §1 Exh. A (part), 1995)

17.142.090 Revocation and expiration of home occupation permits. A. The planning commission may revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.

B. When a home occupation permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home occupation on the subject parcel will be considered.

C. A home occupation permit shall become invalid if the applicant moves his or her residence. (Ord. 634 §1 Exh. A (part), 1995)

17.142.100 Action regarding complaints. A. Complaints may be originated by the city or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:

1. Generation of excessive traffic;
2. Exclusive use of on-street parking spaces;
3. Other offensive activities not compatible with a residential neighborhood.

B. Complaints shall be reviewed by the planner. The planner shall either approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this chapter. The operator of the home occupation may appeal the planner's decision to the planning commission.

C. Cessation of Home Occupation Pending Review. If it is determined by the planning commission in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending planning commission review and/or exhaustion of all appeals.

D. Notice of Appeal Hearing. Written notice of a hearing on an appeal of the planner's decision to either revoke or not revoke a home occupation permit, shall include its date, time and place and shall be give to the property owner(s) and the person(s) undertaking the use if other than the owner(s). Written notice shall also be given to property owners within two hundred feet of the use, the affected neighborhood planning organization, if any, and the complainant(s).

E. Planning Commission Appeal. The planning commission shall either approve the use as it exists, revoke the permit, or compel suitable restrictions and conditions to ensure compatibility with the neighborhood. (Ord. 634 §1 Exh. A (part), 1995)

17.142.130 Business license required. The city requires a business license to operate a home occupation. A business license shall not be issued for a home occupation until the person wishing to engage in a Type I home occupation agrees to comply with the provisions of this chapter; or the application for a Type II home occupation has been approved by the planning commission and the application certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and any conditions of approval. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.150

LAND DIVISION--SUBDIVISION

Sections:

- 17.150.010 Purpose.
- 17.150.020 General provisions.
- 17.150.030 Administration and approval process.
- 17.150.040 Expiration of approval--Standards for extension of time.
- 17.150.050 Phased development.
- 17.150.060 Approval standards--Tentative plan.
- 17.150.070 Application submission requirements--Tentative plan.
- 17.150.140 Application submission requirements--Final plat.
- 17.150.150 City review of final plat--Approval criteria.
- 17.150.160 Centerline monumentation--Monument box requirements.
- 17.150.170 Improvement agreement.
- 17.150.180 Bond--Cash deposit.
- 17.150.190 Filing and recording.
- 17.150.200 Prerequisites to recording the plat.
- 17.150.210 Vacation of plats.
- 17.150.220 Vacation of streets.

17.150.010 Purpose. The purpose of this chapter is to provide rules, regulations and standards governing the approval of plats of subdivisions, to carry out the development pattern and plan of the city, to promote the public health, safety and general welfare, to lessen congestion in the streets, and secure safety from fire, flood, pollution and other dangers, to provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;

and to encourage the conservation of energy resources. (Ord. 634 §1 Exh. A (part), 1995)

17.150.020 General provisions. A. An application for a subdivision shall be processed through a two-step process: the tentative plan and the final plat:

1. The tentative plan shall be approved by the planning commission before the final plat can be submitted for approval consideration; and

2. The final plat shall reflect all conditions of approval of the tentative plan.

B. All subdivision proposals shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

C. When subdividing tracts into large lots, the planning commission shall require that the lots be of such size and shape as to facilitate future re-division in accordance with the requirements of the zoning district and this title.

D. Where landfill and/or development is allowed within and adjacent to the one hundred-year floodplain, the city may require the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain.

E. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located to minimize flood damage and constructed according to public works design standards and specifications.

F. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

G. Where base flood elevation has not been provided or is not available from another authoritative source, it shall be generated by the developer.

H. All subdivision proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points. A circulation plan is conceptual in that its adoption does not establish a precise alignment. An applicant for a subdivision is required to submit a circulation plan unless the applicant demonstrates to the planning services manager one of the following:

1. An existing street or proposed new street need not continue beyond the land to be divided in order to complete or extend an appropriate street system or to provide access to adjacent parcels within five hundred feet of the proposed development; or

2. The proposed street layout is consistent with a street pattern adopted as part of the city's transportation system plan, or a previously adopted circulation plan. (Ord. 711 §1 Exh. A (part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.150.030 Administration and approval process. A. Subdivision proposals shall be processed according to the procedures in Chapter 17.164.

B. Final action, including the resolution of all appeals and review on the land division application, shall be taken within one hundred twenty days after the application is deemed complete.

C. The planner shall:

1. Schedule a limited land use decision pursuant to Chapter 17.164 to be held by the planning commission within sixty days from the time the complete application is filed and shall provide a notice of the hearing;

2. Furnish one copy of the proposed tentative plan to the public works director and the police chief;

3. Furnish one copy of the tentative plan and supplemental material to:

a. The Columbia County land development services, if the proposed subdivision is adjacent to a county road and access to the county road is desired by the applicant (this agency will be given at least five days to review the plan, suggest revisions, and return the plans to the city),

b. The Oregon Department of Transportation (ODOT), if the proposed subdivision is adjacent to a state highway and access to the state highway is desired by the applicant (these agencies will be given at least five days to review the plan, suggest revisions, and return the plans to the city),

c. Scappoose rural fire district,

d. The Port of St. Helens, if applicable,

e. The Scappoose school district,

f. The Columbia County soil conservation district,

g. Scappoose drainage district, if applicable,

h. Burlington Northern Railroad, if applicable, and

i. Any other affected agencies as identified by the planner;

4. Incorporate all staff recommendations into a report to the planning commission.

D. The planner shall mail notice of the tentative plan proposal to persons who are entitled to notice.

E. The planning commission shall approve, approve with conditions, or deny any application for tentative plan. The planning commission shall apply the standards set forth in Section 17.150.060 when reviewing an application for a subdivision.

F. An applicant may request approval of a modification to an approved tentative plan prior to final plat approval by:

1. Submitting an application for modification of approval and providing the planning services manager with a reproducible copy of a revised tentative plan or illustration of the proposed modification accompanied by a written narrative detailing the rationale for the proposed modification;

2. The planning services manager shall determine whether the proposed change is a major or minor modification. Generally, any modification that alters the tentative plan by more than ten percent in regard to the proposed number of lots, or makes significant language changes within conditions of approval, shall be considered a major modification, and is subject to the administration and approval process detailed within this section, the approval authority shall be the planning commission. A minor modification shall be approved, approved with conditions or denied following the planning services manager's review based on findings that:

a. No title provisions will be violated, and

b. The modification is not a major modification. (Ord. 711 §1 Ext. A (part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.150.040 Expiration of approval--Standards for extension of time. A. The tentative plan approval by the planning commission shall lapse if:

1. A final plat has not been submitted within a one-year period; or

2. The final plat does not conform to the tentative plan as approved or approved with conditions.

B. The planner may, upon written request by the applicant, grant one extension of the approval period not to exceed one year, provided that:

1. No changes are made on the original tentative plan as approved by the planning commission;

2. The applicant has expressed written intent of submitting a final plat within the one-year extension period;

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based; and

4. An extension of time will not preclude the development of abutting properties.

C. Notice of the decision regarding the extension shall be provided to the applicant. The planner's decision may be appealed by the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.150.050 Phased development. A. The planning commission may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than two years without submitting a final plat for each completed phase. The planning commission may require a new application for a tentative plan for subsequent phases following the final plat approval.

B. The criteria for approving a phased subdivision proposal are:

1. The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable city or district standard;

3. Construction of all underground utilities for the development shall be included in the initial phase of the development;

4. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as a part of the approval of the tentative plan.

C. The application for phased development approval shall be heard concurrently with the tentative plan application and the decision may be appealed in the same manner as the tentative plan. (Ord. 634 §1 Exh. A (part), 1995)

17.150.060 Approval standards--Tentative plan. A. The planning commission may approve, approve with conditions or deny a tentative plan based on the following approval criteria:

1. The proposed tentative plan complies with the city's comprehensive plan, the applicable chapters of this title, the public works design standards, and other applicable ordinances and regulations;

2. The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92[.090(1)];

3. The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects, including conformance with neighborhood circulation plans, unless the city determines it is in the public interest to modify the street or road pattern; and

4. An explanation has been provided for all public improvements.

B. The planning commission may attach such conditions as are necessary to carry out the comprehensive plan and other applicable ordinances and regulations and may require reserve strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties. (Ord. 711 §1 Exh. A (part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.150.070 Application submission requirements--Tentative plan. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Seven copies of the tentative plan map and required data or narrative. A reproducible copy of the tentative plan and required data or narrative may be substituted for the seven required copies;

2. A list of the names and addresses of all persons who are property owners of record within one hundred feet of the site; and

3. The required fee.

B. The tentative plan map and data or narrative shall include the following:

1. Sheet size for the tentative plan shall preferably not exceed eighteen inches by twenty-four inches;

2. The scale shall be an engineering scale, and limited to one phase per sheet;

3. Vicinity map showing the general location of the subject property in relationship to arterial and collector streets;

4. Names, addresses and telephone numbers of the owner, developer, engineer, surveyor and designer, as applicable;

5. The date of application;

6. The assessor's map and tax lot number and a legal description sufficient to define the location and boundaries of the proposed subdivision;

7. The boundary lines of the tract to be subdivided;

8. The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land;

9. Contour lines related to a city established benchmark at two-foot intervals for grades zero to ten percent and five-foot intervals for grades over ten percent;

10. The purpose, location, type and size of all the following (within and adjacent to the proposed subdivision) existing and proposed:

a. Public and private rights-of-way and easements,

b. Public and private sanitary and storm sewer lines, domestic water mains including fire hydrants, gas mains, major power (fifty thousand volts or better), telephone transmission lines, and watercourses, and

c. Deed reservations for parks, open spaces, path ways and any other land encumbrances;

11. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plans of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants;

12. Approximate centerline profiles showing the finished grade of all streets including street extensions for a reasonable distance beyond the limits of the proposed subdivision;

13. Scaled cross sections of proposed street rights-of-way;

14. The location of all areas subject to inundation or stormwater overflow, and the location, width and direction of flow of all watercourses and drainageways;

15. The proposed lot configurations, approximate lot dimensions and lot numbers. Where lots are to be used for purposes other than residential, it shall be indicated upon such lots. Each lot shall abut upon a public street;

16. The location of all trees with a diameter six inches or greater measured at four feet above ground level (if any), and the location of proposed tree plantings, and a designation of trees to be removed and those that will remain;

17. The existing use of the property, including location of all structures and present use of the structures, and a statement of which structures are to remain after platting;

18. Supplemental information including proposed deed restrictions, if any, proof of property ownership, and a proposed plan for provision of subdivision improvements;

19. Existing natural features including rock outcroppings, wetlands and marsh areas;

20. Unless specifically exempted by the planning services manager, a neighborhood circulation plan that conceptualizes future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points.

C. If any of the foregoing information cannot practicably be shown on the tentative plan, it shall be incorporated into a narrative and submitted with the ap-

plication. (Ord. 711 §1 Exh. A (part), 2001; Ord. 635 §1 (part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.150.140 Application submission requirements--Final plat. Unless otherwise provided in Section 17.150.020, the applicant shall submit final plat and two copies to the planner within one year which complies with the approved tentative plan. (Ord. 634 §1 Exh. A (part), 1995)

17.150.150 City review of final plat--Approval criteria. A. The planner and the public works director shall review the final plat and shall approve or deny the final plat approval based on findings that:

1. The final plat complies with the plat approved by the planning commission and all conditions of approval have been satisfied;

2. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;

3. The streets and roads held for private use and indicated on the tentative plan of such subdivision have been approved by the city;

4. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, storm drainage, sewage disposal, and water supply systems;

5. An explanation is included which explains all of the common improvements required as conditions of approval and are in recordable form and have been recorded and referenced on the plat;

6. The plat complies with the applicable zoning ordinance and other applicable ordinances and regulations;

7. A certificate has been provided by the public works director that municipal water system will be available to the property line of each and every lot depicted in the proposed plat;

8. A certificate has been provided by the public works director that a public sewer system will be available to the property line of each and every lot depicted in the proposed plat;

9. Copies of signed deeds have been submitted granting the city a reserve strip as provided by Section 17.150.060 (B);

10. The final plat has been made in black India ink, or silver halide and is eighteen inches by twenty-four inches in size on four mil double matted mylar;

11. The lettering of the entire plat is of such size and type as approved by the county surveyor and the plat is at such a scale as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch;

12. If there are three or more sheets, a face sheet and index has been provided;

13. The plat contains a surveyor's affidavit by the surveyor who surveyed the land represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapters 92.050 and 92.060 and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or a lot corner of recorded subdivision or partition;

14. The plat contains an affidavit for signature by the city manager accepting street rights-of-way and street improvements for jurisdiction and maintenance by the city and accepting dedications of property to the city;

15. The plat contains an affidavit for signature by the public works director certifying that the final plat meets the requirements of the public works design standards for all improvements to be maintained by the city;

16. The final plat shall not contain any information or be subject to any requirements that is or may be subject to administrative change or variance (ORS 92.050 (11)).

B. The acceptance by the city for maintenance and jurisdiction shall follow approval of the completed improvements. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.150.160 Centerline monumentation--Monument box requirements. A. The centerlines of all street and roadway rights-of-way shall be monumented and recorded before city acceptance of street improvements; and the following centerline monuments shall be set:

1. All centerline-centerline intersection points;
2. All cul-de-sac center points;
3. Curve points, beginning and ending points (point of curvature (P.C.) and point of tangency (P.T.)); and
4. The beginning and end of each new sheet.

B. Monument boxes conforming to city standards will be required around all centerline intersection points and cul-de-sac center points; and the tops of

all monument boxes will be set to finished pavement grade. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.150.170 Improvement agreement. A. If the applicant seeks approval of the final plat prior to completion of the required infrastructure improvements, before city approval is certified on the final plat, and before approved construction plans are issued by the city, the applicant shall:

1. Execute and file an agreement with the public works director specifying the period within which all required improvements and repairs shall be completed; and

2. Include in the agreement provisions that if such work is not completed within the period specified, the city may complete the work and recover the full cost and expenses from the declarant.

B. The agreement shall stipulate improvement fees and deposits as may be required to be paid and may also provide for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract. (Ord. 634 §1 Exh. A (part), 1995)

17.150.180 Bond--Cash deposit. A. As required by Section 17.150.170, the declarant shall file with the agreement an assurance of performance supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;

2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the city in writing that it may be terminated; or

3. Cash.

B. The assurance of performance shall be for a sum determined by the public works director as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

C. The declarant shall furnish to the public works director an itemized improvement estimate, certified by a registered civil engineer, to assist the public works director in calculating the amount of the performance assurance.

D. In the event the declarant fails to carry out all provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond, cash deposit or letter of credit for reimbursement.

E. The declarant shall not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the city. (Ord. 634 §1 Exh. A (part), 1995)

17.150.190 Filing and recording. A. Within ten days of the city review and approval, the applicant shall submit the final plat to the County for signatures of County officials as required by ORS Chapter 92 and Section 17.150.150.

B. Within fifteen days of final recording with the county, the applicant shall submit to the city a plain paper copy of the recorded final plat. (Ord. 636 §1(part), 1996; Ord 634 §1 Exh. A (part), 1995)

17.150.200 Prerequisites to recording the plat. A. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS 92.095.

B. No plat shall be recorded until it is approved by the County surveyor in the manner provided by ORS 92. (Ord. 634 §1 Exh. A (part), 1995)

17.150.210 Vacation of plats. A. Any plat or portion thereof may be vacated by the owner of the platted area at any time prior to the sale of any lot within the platted subdivision.

B. All applications for a plat or street vacation shall be made in accordance with Sections 17.150.020, 17.150.030 and 17.150.160(A).

C. The application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys.

D. All approved plat vacations shall be recorded in accordance with Section 17.150.190:

1. Once recorded, the vacation shall operate to eliminate the force and effect of the plat prior to vacation; and

2. The vacation shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.

E. When lots have been sold, the plat may be vacated in the manner herein provided by all of the owners of lots within the platted area. (Ord. 634 §1 Exh. A (part), 1995)

17.150.220 Vacation of streets. All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271 and any applicable city ordinance or regulation. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.152

LAND DIVISION--MAJOR AND MINOR LAND PARTITIONS AND PROPERTY LINE ADJUSTMENT

Sections:

17.152.010 Purpose.

17.152.020 Partition review required.

17.152.030 General provisions.

17.152.040 Administration and approval process.

17.152.050 Expiration of approval--Standards for extension of time.

17.152.060 Phased development.

17.152.070 Partition approval criteria.

17.152.080 Special provisions for lots created through partition process.

17.152.090 Property line adjustments.

17.152.100 Preliminary application submission requirements.

17.152.110 Final application submission requirements.

17.152.140 City acceptance of dedicated land.

17.152.150 Centerline monumentation--Monument box requirements.

17.152.260 Recording of partitions and property line adjustments.

17.152.010 Purpose. The purpose of this chapter is to provide rules, regulations and standards governing approval of major and minor land partitions and property line adjustments. (Ord. 634 §1 Exh. A (part), 1995)

17.152.020 Partition review required. A. A major land partition review is required when a division of land creates a street or road (public or private), within one calendar year.

B. A minor land partition review is required when three lots or fewer are created without the creation of a street or road, within one calendar year.

C. A property line adjustment is any adjustment to a property line by the relocation of a common boundary where an additional parcel of land is not created. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.152.030 General provisions. A. An application for a major or minor partition shall be processed through a two-step process: (1) the tentative plan, and (2) the final plat:

1. The tentative plan for a major partition shall be approved by the planning commission before the final plat can be submitted for approval consideration; the tentative plan for a minor partition shall be approved by the planner before the final plat can be submitted for approval consideration; and 17.152.030

2. The final plat shall reflect all conditions of approval of the tentative plan.

B. All partition and property line adjustment proposals shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

C. When partitioning tracts into large lots, the approval authority shall require that the lots be of such size and shape as to facilitate future redivision in accordance with the requirements of the zoning district and this title.

D. Where landfill and/or development is allowed within the floodway fringe, the city may require the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain.

E. All partition proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

F. All partition proposals shall have adequate drainage provided to reduce exposure to flood damage.

G. All land partition proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths and destination points. A circulation plan is conceptual in that its adoption does not establish a precise alignment. An applicant for a partition is required to submit a circulation plan unless the applicant demonstrates to the planning services manager one of the following:

1. An existing street or proposed new street need not continue beyond the land to be divided in order to complete or extend an appropriate street system or to provide access to adjacent parcels within five hundred feet of the proposed development; or

2. The proposed street layout is consistent with a street pattern adopted as part of the city's transportation system plan, or a previously adopted circulation plan. (Ord. 711 §1 Exh. A (part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.152.040 Administration and approval process. A. The applicant of a partition or property line adjustment proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Any application for a major or minor land partition or property line adjustment shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivision and Partitions.

C. No lot or parcel to be created through the partitioning process shall be sold until approval and filing of the final partition plat.

D. Partitions shall be processed according to Chapter 17.164. The approval authority for a major partition shall be the planning commission.

E. Upon receipt of a completed application for a major partition, the planner shall:

1. Schedule a limited land use decision pursuant to Chapter 17.164, to be held by the planning commission within sixty days from the time the complete application is filed and shall provide a notice of the hearing;

2. Furnish one copy of the proposed tentative plan to the public works director and the police chief;

3. Furnish one copy of the tentative plan and supplemental material to:

a. The Columbia County land development services, if the proposed partition is adjacent to the UGB or has county road access,

b. The Oregon Department of Transportation (ODOT), if the proposed partition is adjacent to a state highway and access to the state highway is desired by the applicant (these agencies will be given at least five days to review the plan, suggest revisions, and return the plans to the city),

c. The Scappoose rural fire district,

d. Any other affected agencies as determined by the planner;

4. Incorporate all staff recommendations into a staff report to the planning commission;

5. The planning commission shall approve, approve with conditions, or deny any application for tentative plan. The planning commission shall apply the standards set forth in Section 17.152.070 when reviewing an application for a partition.

F. Upon receipt of a completed application for a minor partition, the planner shall process according to Chapter 17.164 and the planner shall be the approval authority.

G. An applicant may request approval of a modification to an approved preliminary partition plan prior to final partition plat approval by:

1. Submitting an application for modification of approval and providing the planning services manager with a reproducible copy of a revised preliminary plan or illustration of the proposed modification accompanied by a written narrative detailing the rationale for the proposed modification;

2. The planning services manager shall determine whether the proposed change is a major or minor modification. Generally, any modification that alters the preliminary plan by making significant language changes within conditions of approval, shall be considered a major modification, and is subject to the administration and approval process detailed within this section, the approval authority shall be the planning commission. A minor modification shall be approved, approved with conditions or denied following the planning services manager's review based on findings that:

a. No title provisions will be violated;

b. The modification is not a major modification. (Ord. 711 §1 Exh. A (part), 2001; Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.152.050 Expiration of approval--Standards for extension of time. A. Approvals for major partitions, minor partitions and property line adjustments shall be effective for a period of one year from the date of approval.

B. The approval shall lapse if:

1. The partition or property line adjustment has been improperly recorded with Columbia County without the satisfactory completion of all conditions attached to the approval;

2. The final recording is a departure from the approved plan.

C. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year provided that:

1. No changes are made on the original plan as approved by the planner;
 2. The applicant can show intent of recording the approved property line adjustment within the one year extension period; and
 3. There have been no changes in the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- D. Notice of the decision regarding the extension shall be provided to the applicant. The planner's decision may be appealed. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.152.060 Phased development. A. The planning commission may approve a time schedule for developing a partition in phases, but in no case shall the actual construction time period for any phase be greater than two years without submitting the final plat for each completed phase.

The planning commission may require a new application for a tentative plan for subsequent phases following the final plat approval.

B. The criteria for approving a phased site development review proposal are:

1. The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;
2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable city or district standard;
3. Construction of all underground utilities for the development shall be required in the initial phase of the development;
4. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as a part of the approval of the tentative plan.

C. The application for phased development approval shall be heard concurrently with the tentative plan application and the decision may be appealed in the same manner as the tentative plan. (Ord. 634 §1 Exh. A (part), 1995)

17.152.070 Partition approval criteria. A request to partition land shall meet all of the following criteria:

- A. The proposed partition complies with all statutory and ordinance requirements and regulations;
 - B. Adequate public facilities are available to serve the proposal;
 - C. All proposed lots conform to the size and dimensional requirements of this title; and
 - D. All proposed improvements meet city and applicable agency standards.
- E. Streets or roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects, including conformance with submitted neighborhood circulation plans, unless the city determines it is in the public interest to modify the street or road pattern. (Ord. 711 §1 Exh. A (part), 2001; Ord. 634 §1 Exh. A (part), 1995)

17.152.080 Special provisions for lots created through partition process. A. The minimum width of the building envelope area shall meet the lot requirement of the applicable zoning district.

B. The lot area shall be as required by the applicable zoning district. In the case of a flag lot, the accessway may not be included in the lot area calculation.

C. Each lot created through the partition process shall front a public right-of-way as specified by the zoning designation. All flag lots shall be considered to be major variances and shall be subject to planning commission review and approval.

D. Setbacks shall be as required by the applicable zoning district.

E. When the partitioned lot is a flag lot, the developer may determine the location of the front yard, provided that no side yard is less than ten feet. Structures shall generally be located so as to maximize separation from existing structures.

F. Screening to the standards included in Section 17.100.090, may be required along the property line of a lot of record where the paved drive of an accessway is located within ten feet of an abutting lot. Screening to the standards included in Section 17.100.090 may also be required to maintain privacy for abutting lots and to provide usable outdoor recreation areas for proposed development.

G. The Scappoose fire district may require the installation of a fire hydrant where the length of an accessway would have a detrimental effect on firefighting capabilities and may require provision of an emergency vehicle turnaround.

H. No greater than three single-family detached dwelling units may be served by a common drive. Use of a common drive for access to more than three dwelling units other than single-family detached may be required and shall be subject to the approval of the planner, public works director and the planning commission. Where a common drive is to be provided, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved partition map.

I. Any access way shall be paved and shall comply with the standards set forth in public works design standards.

J. Where landfill and/or development is allowed within the floodway fringe, the city may require the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain. (Ord. 634 §1 Exh. A (part), 1995)

17.152.090 Property line adjustments. A. Within forty-five days of receipt of a completed application for a property line adjustment, the planner shall approve, approve with conditions or deny a request for a property line adjustment in writing based on findings that the criteria stated are satisfied as follows:

1. An additional parcel is not created by the property line adjustment, and the existing parcel as reduced in size by the adjustments is not reduced below the mini-

mum lot size established by the zoning district;

2. By reducing the lot size, the lot or structures(s) on the lot will not be in violation of the site development or zoning district regulations for that district; and

3. The resulting parcels are in conformity with the dimensional standards of the zoning district.

B. The provisions of Section 17.152.080 shall also apply to property line adjustments;

C. A property line adjustment is not considered a development action for purposes of determining whether floodplain, greenway or right-of-way dedication may be required;

D. Final Action for Property Line Adjustment.

1. The planner shall approve or deny an application. The planner shall apply the standards set forth in this section when reviewing an application for a property line adjustment.

2. The planner shall mail notice of the completed property line adjustment approval to the owners of the parcels involved in the proposal and to the owners of abutting properties.

3. The decision of the planner may be appealed to the planning commission. (Ord. 634 §1 Exh. A (part), 1995)

17.152.100 Preliminary application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by copies of the preliminary partition map or property line adjustment map and necessary data or narrative.

B. The preliminary partition map and necessary data or narrative shall include the following:

1. a. Name of the owner(s) of the subject parcel,
- b. Name of the owner(s) authorized agent (if applicable), and
- c. Name, address and phone number of the land surveyor,
2. The map scale, north arrow and date;
3. Sufficient description to define the location and boundaries of the proposed area to be partitioned or adjusted;
4. The scale shall be an engineering scale sufficient to show the details of the plan and related data;
5. The location, width and names of streets or other public ways and easements within and adjacent to the proposed partition;
6. Other important features, to include:
 - a. The location of all permanent buildings on and within twenty-five feet of all property lines,
 - b. The location and width of all water courses,
 - c. Any trees with a diameter of six inches or greater at four feet above ground level,
 - d. All slopes greater than fifteen percent, and
 - e. The location of existing utilities and utility easements;
7. In the case of a major land partition, the applicant shall include the proposed right-of-way location and width, and a scaled cross section of the proposed street (to include any reserve strip);
8. Any deed restrictions that apply to the existing lot;
9. A plan outlining how utilities, public services, and utility easements will serve newly created parcels; and
10. Where it is evident that the subject parcel can be further partitioned, the applicant must show that the land partition will not preclude the efficient division of land in the future.

11. Unless specifically exempted by the planning services manager, a neighborhood circulation plan that conceptualizes future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points.

C. The tentative plan or property line adjustment map shall be as accurate as possible to ensure proper review by affected agencies.

D. Upon receipt of an application, the planner shall review it for compliance with the requirements for submittal (see subsections A and B of this section). If the application is found to be incomplete, the planner shall within thirty days notify the applicant of the reasons therefore and advise the applicant of the requirements for an acceptable application.

E. Upon acceptance of a complete application, the planner shall transmit copies of the preliminary land partition application or property line adjustment map to the public works director as well as other potentially affected agencies where necessary.

F. The planner shall review the proposal for compliance with the provisions of this title and coordinate the review conducted by affected agencies and applicable districts for compliance with applicable regulations.

G. The planner shall review the proposed property line adjustment for compliance with the provisions of this title, and shall issue a decision to owners of the involved parcels, abutting property owners, and affected service providing agencies with regard to the compliance of the application with respect to all applicable approval criteria. If the planner believes that existing utilities may be affected by the proposed adjustment, the planner may defer making a decision on the application until the affected service providing agencies have been given an opportunity to review and comment upon the proposal. In addition, an affected agency may request an amended decision within ten days of the issuance of a decision for which comments were not requested, if the agency finds that utilities may be affected by the proposed adjustment.

H. Following the review of the land partition or property line adjustment by the applicable agencies, the applicant will be advised of the status of the proposal and of any additional information which shall be required prior to the filing of a final land partition plat or property line adjustment map and shall be notified of conditions to be attached to the approval.

I. Except as provided in ORS 92.040, the review of the tentative plan or property line adjustment does not guarantee the applicant that the final application for a land partition or property line adjustment will be approved nor that additional information or revisions will not be required by the city. (Ord. 711 §1 Exh. A (part), 2001; Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.152.110 Final application submission requirements. A. All final applications for major and minor land partitions and property line adjustments shall be provided the planner and shall be accompanied by a reproducible copy of the partition plat or the final property line adjustment survey map prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

B. The partition plat or property line adjustment survey map and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.050) and by Columbia County and shall include the following:

1. The final partition map shall be drawn on an eighteen inch by twenty-four inch mylar sheet. The final property line adjustment map must be eighteen inches by twenty-four inches and may be on vellum or mylar;

2. The scale of the map shall be an engineering scale approved by the county surveyor;

3. a. Name of the owner(s) of the subject parcel,

b. Name of the owner(s) authorized agent (if applicable), and

c. Name, address and phone number of the land surveyor;

4. The assessor's map and lot number and a copy of the deed, sales contract or document containing a legal description of the land to be partitioned;

5. The map scale, north arrow and date;

6. Dimensions and legal descriptions of the parent parcel and all proposed parcels;

7. Boundary lines and names of adjacent partitions and subdivisions, and tract lines abutting the site;

8. The locations, width and names of streets or other public ways and easements within and adjacent to the proposed partition;

9. In the case of a major land partition, the applicant shall include the proposed right-of-way location and width, and a scaled cross section of the proposed street (to include any reserve strip);

10. Any deed restrictions that apply to existing or proposed lots; and

11. Signature blocks for city approval and acceptance of public easements and rights-of-way. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.152.140 City acceptance of dedicated land. A. The city manager shall accept by signature on the final plat the proposed right-of-way dedication prior to recording a land partition.

B. The city manager shall accept by signature on the final plat all public easements shown for dedication on partition plats maps. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

17.152.150 Centerline monumentation--Monument box requirements. The centerlines of all street and roadway rights-of-way shall be monumented as prescribed in ORS 92.060(2) before city acceptance of street improvements. Centerline monuments are required to have monument boxes approved by the public works director and the tops of all monument boxes shall be set to finished pavement grade. (Ord. 634 §1 Exh. A (part), 1995)

17.152.260 Recording of partitions and property line adjustments. A. Within ten days of the planner's approval of the partition or property line adjustment and the city manager's acceptance of any dedicated land to the city, the applicant shall record the partition plat or property line adjustment survey map with Columbia County and submit the recordation numbers to the city, to be incorporated into the record.

B. The applicant shall submit a recorded plain paper copy of the final partition plat or property line adjustment survey map to the city within fifteen days of recording. (Ord. 636 §1(part), 1996; Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.154 STREET AND UTILITY IMPROVEMENT STANDARDS

Sections:

- 17.154.010 Purpose.
- 17.154.020 General provisions.
- 17.154.030 Streets.
- 17.154.040 Blocks.
- 17.154.050 Easements.
- 17.154.070 Sidewalks.
- 17.154.080 Public use areas.
- 17.154.090 Sanitary sewers.
- 17.154.100 Storm drainage.
- 17.154.105 Water system.
- 17.154.107 Erosion controls.
- 17.154.110 Bikeways.
- 17.154.120 Utilities.
- 17.154.130 Cash or bond required.
- 17.154.140 Monuments.
- 17.154.150 Installation/permit fee.
- 17.154.160 Installation--Conformation required.
- 17.154.170 Plan checking required.
- 17.154.180 Notice to city required.
- 17.154.190 City inspection required.
- 17.154.200 Engineer's certification required.

17.154.010 Purpose. The purpose of this chapter is to inform applicants of general design standards for street and utility improvements and maintain consistency between this title and the Scappoose public works design standards and standard specifications. (Ord. 634 §1 Exh. A (part), 1995)

17.154.020 General provisions. A. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs and other public improvements within the city shall occur in accordance with the standards of this title, the public works design standards, and in accordance with county or state standards where appropriate.

B. The public works director may require changes or supplements to the standard specifications consistent

with the application of engineering principles.

C. Subject to approval of the planner and the public works director, street sections may be modified administratively based on geographical constraints of steep slopes, wetlands, floodplains, and constraints imposed by existing structures. Modifications may include, but are not limited to, reduced paving widths, elimination of on-street parking and eliminating sidewalks on one side of the street. (Ord. 658 §3(part), 1997; Ord. 634 §1 Exh. A (part), 1995)

17.154.030 Streets. A. No development shall occur unless the development has frontage or approved access to a public street:

1. Streets within a development and streets adjacent to a development shall be improved in accordance with this title and the public works design standards and specifications.

2. Any new street or additional street width planned as a portion of an approved street plan shall be dedicated and improved in accordance with this title and the public works design standards and specifications.

3. Subject to approval of the public works director and the planner, the planner may accept and record a non-remonstrance agreement in lieu of street improvements if one or more of the following conditions exist:

a. A partial improvement is not feasible due to the inability to achieve a cohesive design for the overall street;

b. A partial improvement may create a potential safety hazard to motorists or pedestrians;

c. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;

d. The improvement would be in conflict with an adopted capital improvement plan;

e. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets; or

f. Additional planning work is required to define the appropriate design standards for the street and the application is for a project which would contribute only a minor portion of the anticipated future traffic on the street.

B. Rights-of-way shall be created through the approval of a final subdivision plat or major partition; however, the council may approve the creation of a street by acceptance of a deed, provided that such street is deemed essential by the council for the purpose of general traffic circulation:

1. The council may approve the creation of a street by deed of dedication without full compliance with the regulations applicable to subdivisions or major partitions if any one or more of the following conditions are found by the council to be present:

a. Establishment of a street is initiated by the council and is found to be essential for the purpose of general traffic circulation, and partitioning of subdivision of land has an incidental effect rather than being the primary objective in establishing the road or street for public use; and

b. The tract in which the road or street is to be dedicated is an isolated ownership of one acre or less and such dedication is recommended by the commission to the council based on a finding that the proposal is not an attempt to evade the provisions of this title governing the control of subdivisions or major partitions.

2. With each application for approval of a road or street right-of-way not in full compliance with the regulations applicable to the standards, the proposed dedication shall be made a condition of subdivision and major partition approval:

a. The applicant shall submit such additional information and justification as may be necessary to enable the commission in its review to determine whether or not a recommendation for approval by the council shall be made;

b. The recommendation, if any, shall be based upon a finding that the proposal is not in conflict with the purpose of this title or the city's public works design standards relating to street standards and street acceptance policies;

c. The commission, in submitting the proposal with a recommendation to the council, may attach conditions which are necessary to preserve the standards of this title;

d. All deeds of dedication shall be in a form prescribed by the city and shall name "the city of Scappoose, Oregon" or "the public," whichever the city may require, as grantee;

e. All instruments dedicating land to public use shall bear the approval by the city manager accepting the dedication prior to recording.

3. No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the city.

C. The planning commission may approve an access easement established by deed without full compliance with this title provided such an easement is the only reasonable method by which a lot large enough to develop can develop:

1. Access easements which exceed one hundred fifty feet shall be improved in accordance with the Uniform Fire Code.

2. Access shall be in accordance with the public works design standards.

3. All access ways shall be improved in accordance with the public works design standards, and shall be a minimum of twenty feet in width with a paved width of eighteen feet.

D. The location, width and grade of all streets shall conform to an approved street plan and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets:

1. Street grades shall be approved by the public works director in accordance with the city's public works design standards; and

2. Where the location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either:

a. Provide for the continuation or appropriate projection of existing streets in the surrounding areas, or

b. Conform to a plan adopted by the council, if it is impractical to conform to existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.

3. New streets shall be laid out to provide reasonably direct and convenient routes for walking and cycling within neighborhoods and accessing adjacent development.

E. The street right-of-way and roadway widths shall not be less than the minimum widths described in the city's public works design standards.

F. Where necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed. A reserve strip across the end of a dedicated street shall be deeded to the city; and a barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the public works director, the cost of which shall be included in the street construction cost.

G. No street name shall be used which will duplicate or be confused with the names of existing streets within the city's urban growth boundary, except for extensions of existing streets. Street names and numbers are subject to review and approval the Scappoose rural fire district.

H. Concrete vertical curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in this chapter and the city's public works design standards. Concrete curbs and driveway approaches are required and shall be built to the city's configuration standards.

I. Wherever the proposed development contains or is adjacent to a railroad right-of-way, provision shall be made for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land, and the distance shall be determined with due consideration at cross streets or the minimum distance required for approach grades and to provide sufficient depth to allow screen planting along the railroad right-of-way in nonindustrial areas.

J. Where a development abuts or is traversed by an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements shall include any of the following:

1. A parallel access street along the arterial;
2. Lots of suitable depth abutting the arterial to provide adequate buffering with frontage along another street;
3. Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial; or
4. Other treatment suitable to meet the objectives of this subsection.

K. Upon completion of a street improvement and prior to acceptance by the city, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the city that all boundary and interior monuments shall be established or re-established, protected and recorded.

L. Private streets are permitted within manufactured home parks, and the city shall require legal assurances for the continued maintenance of private streets, such as:

1. A bonded maintenance agreement; and
2. The creation of a homeowners association;

M. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution shall be determined by the public works director and approved by the commission.

O. The developer shall install all street signs, relative to traffic control and street names, as specified by the public works director for any development. The cost of signs shall be the responsibility of the developer.

P. Joint mailbox facilities shall be provided in all residential developments, with each joint mailbox serving at least two dwelling units.

1. Joint mailbox structures shall be placed adjacent to roadway curbs;

2. Proposed locations of joint mailboxes shall be designated on a copy of the tentative plan, and shall be approved by the U.S. Post Office prior to plan approval; and

3. Plans for the joint mailbox structures to be used shall be submitted for approval by the planner prior to final approval.

Q. The location of traffic signals shall be noted on approved street plans, and where a proposed street intersection will result in an immediate need for a traffic signal, a city-approved signal shall be installed. The cost shall be included as a condition of development.

R. Street lights shall be installed in accordance with the city's public works design standards.

S. Street names are subject to the approval of the Scappoose rural fire district and street name signs shall be required as specified in the city's public works design standards. (Ord. 658 §3(part), 1997; Ord. 634 §1 Exh. A (part), 1995)

17.154.040 Blocks. A. The length width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated, consideration of needs for safe and convenient pedestrian and vehicular access and circulation and recognition of limitations and opportunities of topography.

B. Except for arterial streets, no block face shall be more than six hundred feet in length between street corner lines and no block perimeter formed by the intersection of pedestrian accessways and local, collector and arterial streets shall be more than one thousand six hundred feet in length. The recommended minimum length of blocks along an arterial street is one thousand eight hundred feet. A block shall have sufficient width to provide for two tiers of building sites. Reverse frontage on arterial streets may be required by the planning commission.

C. Exemptions from requirement of subsection B of this section may be allowed, upon approval by the planner and the public works director, for the following two conditions:

1. Where topography and/or other natural conditions, such as wetlands or stream corridors, preclude a local street connection consistent with the stated block length standards. When such conditions exist, a pedestrian accessway shall be required in lieu of a public street connection if the accessway is necessary to provide safe, direct and convenient circulation and access to nearby destinations such as schools, parks, stores, etc.

2. Where access management standards along an arterial street preclude a full local street connection. The recommended minimum block along an arterial is one thousand eight hundred feet which conflicts with the street connectivity requirements. Where such conditions exist, and in order to provide for adequate connectivity and respect the needs for access management, the approval authority shall require either a right-in/right-out public street connection or public accessway connection to the arterial in lieu of a full public street connection. Where a right-in/right-out street connection is provided, turning movements shall be defined and limited by raised medians to preclude inappropriate turning movements. (Ord. 658 §3(part), 1997: Ord. 634 §1 Exh. A (part), 1995)

17.154.050 Easements. A. Easements for sewers, drainage, water mains, electric lines or other public utilities shall be either dedicated or provided for in the deed restrictions, and where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a

stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance.

B. A property owner proposing a development shall make arrangements with the city, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. (Ord. 634 §1 Exh. A (part), 1995)

17.154.070 Sidewalks. A. Sidewalks are required and shall be constructed, replaced or repaired in accordance with the city's public works design standards.

B. Maintenance of sidewalks and curbs is the continuing obligation of the adjacent property owner.

C. Subject to approval by the public works director and planner, planner may accept and record a nonremonstrance agreement for the required sidewalks from the applicant for a building permit for a single-family residence when the public works director determines the construction of the sidewalk is impractical for one or more of the following reasons:

1. The residence is an in-fill property in an existing neighborhood and adjacent residences do not have sidewalks;

2. Sidewalk grades have not and will not be established for the property in question within a one-year period;

3. Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical.

D. In the event one or more of the following situations are found by the council to exist, the council may adopt a resolution to initiate construction of a sidewalk in accordance with city ordinances:

1. A safety hazard exists for children walking to or from school and sidewalks are necessary to eliminate the hazard;

2. A safety hazard exists for pedestrians walking to or from a public building, commercial area, place of assembly or other general pedestrian traffic, and sidewalks are necessary to eliminate the hazard;

3. Fifty percent or more of the area in a given block has been improved by the construction of dwellings, multiple dwellings, commercial buildings or public buildings and/or parks. (Ord. 634 §1 Exh. A (part), 1995)

17.154.080 Public use areas. A. Where a proposed park, playground or other public use shown in a development plan adopted by the city is located in whole or in part in a subdivision, the commission may require the dedication or reservation of such area within the subdivision.

B. Where considered desirable by the commission in accordance with adopted comprehensive plan policies, and where a development plan of the city does not indicate

proposed public use areas, the commission may require the dedication or reservation of areas within the subdivision or sites of a character, extent and location suitable for the development of parks and other public use.

C. If the declarant is required to reserve land area for a park, playground or other public use, such land shall be acquired by the appropriate public agency within eighteen months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the declarant. (Ord. 634 §1 Exh. A (part), 1995)

17.154.090 Sanitary sewers. A. Sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in

accordance with the provisions set forth by the city's public works design standards and the adopted policies of the comprehensive plan.

B. The public works director shall approve all sanitary sewer plans and proposed systems prior to issuance of development permits involving sewer service.

C. Proposed sewer systems shall include consideration of additional development within the area as projected by the comprehensive plan and the wastewater treatment facility plan and potential flow upstream in the sewer sub-basin.

D. Applications shall be denied by the approval authority where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system. (Ord. 634 §1 Exh. A (part), 1995)

17.154.100 Storm drainage. A. The planner and public works director shall issue permits only where adequate provisions for stormwater and floodwater runoff have been made, and:

1. The stormwater drainage system shall be separate and independent of any sanitary sewerage system.

2. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street.

3. Surface water drainage patterns shall be shown on every development proposal plan.

4. All stormwater analysis and calculations shall be submitted with proposed plans for public works directors review and approval.

5. All stormwater construction materials shall be subject to approval of the public works director.

B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance.

C. A culvert or other drainage facility shall, and in each case be, large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The public works director shall determine the necessary size of the facility.

D. Where it is anticipated by the public works director that the additional runoff resulting from the development will overload an existing drainage facility, the planner and engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development. (Ord. 634 §1 Exh. A (part), 1995)

17.154.105 Water system. The planner and public works director shall issue permits only where provisions for municipal water system extensions have been made, and:

A. Any water system extension shall be designed in compliance with the comprehensive plan existing water system plans.

B. Extensions shall be made in such a manner as to provide for adequate flow and gridding of the system.

C. The public works director shall approve all water system construction materials. (Ord. 634 §1 Exh. A (part), 1995)

17.154.107 Erosion controls. A. Any time the natural soils are disturbed and the potential for erosion exists, measures shall be taken to

prevent the movement of any soils off site. The public works director shall determine if the potential for erosion exists and appropriate control measures.

B. The city shall use the city's public works design standards as the guidelines for erosion control. (Ord. 634 §1 Exh. A (part), 1995)

17.154.110 Bikeways. A. Developments adjoining proposed bikeways shall include provisions for the future extension of such bikeways through the dedication of easements or rights-of-way.

B. Where possible, bikeways should be separated from other modes of travel including pedestrians.

C. Minimum width for bikeways is four paved feet per travel lane. (Ord. 634 §1 Exh. A (part), 1995)

17.154.120 Utilities. A. All utility lines including, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at fifty thousand volts or above, and:

1. The applicant shall make all necessary arrangements with the serving utility to provide the underground services;

2. The city reserves the right to approve location of all surface mounted facilities;

3. All underground utilities, including sanitary sewers, water lines, and storm drains installed in streets by the applicant, shall be constructed prior to the surfacing of the streets; and

4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

B. The applicant for a subdivision shall show on the development plan or in the explanatory information, easements for all underground utility facilities, and:

1. Plans showing the location of all underground facilities as described herein shall be submitted to the public works director for review and approval; and

2. Above ground equipment shall not obstruct vision clearance areas for vehicular traffic. (Ord. 634 §1 Exh. A (part), 1995)

17.154.130 Cash or bond required. A. All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one year following acceptance by the city council.

B. Such guarantee shall be secured by cash deposit or bond for one hundred ten percent of the actual cost of the value of the improvements as set by the public works director.

C. The cash or bond shall comply with the terms and conditions of Section 17.150.180. (Ord. 634 §1 Exh. A (part), 1995)

17.154.140 Monuments. Any monuments that are disturbed before all improvements are completed by the applicant shall be replaced and recorded prior to final acceptance of the improvements. (Ord. 634 §1 Exh. A (part), 1995)

17.154.150 Installation/permit fee. A. No land division improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans have been approved by the city, and all applicable fees paid.

B. The inspection fee is required to defray in whole or in part the cost and expenses incurred by the city in connection with the improvement, and such

fee may be a sum up to ten percent of the estimated cost of such subdivision improvement. The fee shall be limited to the actual costs and shall include, but not be limited to, inspection, plan review, special consultant fees and project administration costs. (Ord. 634 §1 Exh. A (part), 1995)

17.154.160 Installation--Conformation required. In addition to other requirements, improvements installed by the land divider either as a requirement of these regulations or at the developers own option, shall conform to the requirements of this chapter and to improvement standards and specifications followed by the city. (Ord. 634 §1 Exh. A (part), 1995)

17.154.170 Plan checking required. A. Work shall not begin until construction plans and a construction estimate have been submitted and checked for adequacy and approved by the city in writing. Three sets of plans shall be submitted for review.

B. Three sets of revised plans (as approved) shall be provided.

C. All such plans shall be prepared in accordance with requirements of the city's public works design standards. (Ord. 634 §1 Exh. A (part), 1995)

17.154.180 Notice to city required. A. Work shall not begin until the city has been notified in advance.

B. If work is discontinued for any reason, it shall not be resumed until the city is notified. If work is discontinued, the site shall be protected from erosion. (Ord. 634 §1 Exh. A (part), 1995)

17.154.190 City inspection required. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. (Ord. 634 §1 Exh. A (part), 1995)

17.154.200 Engineer's certification required. The land divider's engineer shall provide written certification that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, and are of high grade and that improvements were built according to plans and specifications, prior to city acceptance of the subdivision's improvements or any portion thereof for operation and maintenance. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.160

PROCEDURES FOR DECISION MAKING--LEGISLATIVE

Sections:

- 17.160.010 Purpose.
- 17.160.020 The application process.
- 17.160.025 Notice requirements.
- 17.160.030 Staff reports.
- 17.160.040 Hearings procedure.
- 17.160.120 The standards for the decision.
- 17.160.130 Approval process and authority.
- 17.160.140 Vote required for a legislative change.
- 17.160.170 Reapplication.

17.160.010 Purpose. The purpose of this chapter is to establish procedures for consideration of legislative changes to the provisions of the

comprehensive plan, implementing ordinances and maps. (Ord. 634 §1 Exh. A (part), 1995)

17.160.020 The application process. A. The application process may be initiated by:

1. Resolution of the city council;
2. Resolution of the planning commission;
3. The planner;
4. A recognized neighborhood planning organization or city advisory board or commission; or
5. Application of a record owner of property or contract purchaser.

B. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

C. The application shall be made on forms provided by the planner.

D. The application shall be complete and shall:

1. Contain the information requested on the form;
2. Address the appropriate criteria in sufficient detail for review and action;

3. Be accompanied by the required fee except as follows:

a. Fees for land use applications and appeals of a land use decision shall be waived for a recognized neighborhood planning organization (NPO) if the appeal or land use application is supported by a majority vote of NPO members at a public meeting where a quorum of NPO members was present and a copy of the minutes of the NPO meeting where the appeal or land use application was initiated is submitted with the appeal or land use application.

b. The NPO chairperson or designated representative shall appear at the next available city council meeting after the application or appeal is filed to request a waiver. The NPO shall work with the planner to schedule the item on a council agenda.

c. Council may, on its own motion and by voice vote, waive the appeal fee for other Scappoose based nonprofit organizations;

4. Be accompanied by a narrative addressing the standards in Section 17.160.120.

E. An application shall be deemed incomplete unless it addresses each element required by the form and each element required by this title and is accompanied by the required fee.

F. The planner shall not accept an incomplete application.

G. The planner may require information in addition to that required by a specific provision of this title, provided the planner determines this information is needed to properly evaluate the proposed development proposal; and the need can be justified on the basis of a special or unforeseen circumstance.

H. The planner may waive the submission of information for a specific requirement provided the planner finds that specific information is not necessary to properly evaluate the application; or the planner finds that a specific approval standard is not applicable to the application.

I. Where a requirement is found by the planner to be inapplicable, the planner shall:

1. Indicate for the record and to the applicant the specific requirements found inapplicable; and
2. Advise the applicant in writing that the finding may be challenged on appeal or at the hearing or decision on the matter and may be denied by the approval authority; and
3. Cite in the staff report on the application the specific requirements found inapplicable, the reasons therefor and the specific grant of

authority. (Ord. 634 §1 Exh. A (part), 1995)

17.160.025 Notice requirements. A. The planning commission shall hold at least one public hearing on each application request within sixty days of receipt of a completed application.

B. The Council shall hold at least one public hearing on each application request within forty-five days of the planning commission's recommendation.

C. Notice of legislative public hearings shall be given by the planner in the following manner:

1. At least forty-five days before the final hearing on adoption of any proposal to amend the comprehensive plan or to adopt a new land use regulation, notice shall be sent to the LCDC;

2. At least ten days prior to the scheduled hearing date, notice shall be sent to:

- a. The applicant;
- b. Any affected governmental agency;
- c. The affected recognized neighborhood planning organization; and
- d. Any person who requests notice in writing.

3. At least seven days prior to the scheduled public hearing date, notice shall be given in a newspaper of general circulation in the city.

4. Notice may be given for both the commission and council hearings in one consolidated notice.

D. The planner shall:

1. Cause a copy of the notice and the applicable mailing list to be filed and made a part of the record; and 2. Cause a copy of the notice to be published to be filed and made part of the record. (Ord. 634 §1 Exh. A (part), 1995)

17.160.030 Staff reports. A. The planner shall prepare a staff report which includes:

1. The facts found relevant to the proposal and found by the planner to be true;

2. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;

3. Any federal or state statutes or rules found applicable;

4. The applicable comprehensive plan policies and map;

5. The applicable provisions of the implementing ordinances;

6. If applicable, proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application;

7. An analysis relating the facts found to be true by the planner to the applicable criteria and a recommendation for approval, approval with modifications or denial and if applicable, any alternative recommendations.

B. The staff report and all case file materials shall be available seven days prior to the initial scheduled planning commission hearing.

C. Prior to the initial council hearing, the planner shall transmit the following to the council members:

1. A copy of the staff report as submitted to the commission;

2. A copy of the commission recommendation; and

3. A copy of the minutes of the commission public hearing. (Ord. 634 §1 Exh. A (part), 1995)

17.160.040 Hearings procedure. A. Unless otherwise provided in the rules of procedure adopted by the city council the presiding officer of the planning commission and of the council shall have the authority to:

1. Regulate the course, sequence and decorum of the hearing;
2. Dispose of procedural requirements or similar matters;
3. Rule on offers of proof and relevancy of evidence and testimony;
4. Impose reasonable time limits for oral presentation and rebuttal testimony; and
5. Take such other action appropriate for conduct commensurate with the nature of the hearing.

B. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the planning commission and of the council, shall conduct the hearing as follows:

1. Opening statement: The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this section, and whether the decision which will be made is a recommendation to the city council or whether it will be the final decision of the council.

2. Hearing process:

- a. A presentation of the staff report and other applicable reports shall be given.

- b. Presentation by applicant or representative.

- c. The public shall be invited to testify.

- d. Staff shall be invited to comment on testimony or evidence presented.

- e. The public hearing may be continued to another hearing date to allow additional testimony or it may be closed.

- f. The body's deliberation may include questions to staff, comments from the staff or inquiries directed to any person present.

- g. The hearing body may make a decision on the matter, continue its deliberation, table the matter or, if the body deems it necessary or advisable, it may direct that additional hearings be held.

- h. The planning commission or the council may continue any hearing and no additional notice shall be required if the matter is continued to a place, date and time certain.

C. Unless otherwise provided in the rules of procedures adopted by the council, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time before the close of the hearing, and the answers shall be limited to the substance of the question.

2. Parties or the planner must receive approval from the approving authority to submit questions directly to other parties or witnesses or the planner.

3. A reasonable amount of time shall be given to persons to respond to questions.

4. No person shall testify without first receiving recognition from the approval authority and stating his full name and address.

5. The approval authority may require that testimony be under oath or affirmation.

6. Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of persons responsible.

7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing. (Ord. 634 §1 Exh. A (part), 1995)

17.160.120 The standards for the decision. A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;
2. Any federal or state statutes or rules found applicable;
3. The applicable comprehensive plan policies and map; and
4. The applicable provisions of the implementing ordinances.

B. Consideration may also be given to:

Proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application. (Ord. 634 §1 Exh. A (part), 1995)

17.160.130 Approval process and authority. A. Following the public hearing, the planning commission shall formulate a recommendation to the council to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative.

Within ten days of the planning commission's recommendation, the planner shall provide written notification to the council and to all persons who provided testimony.

B. Any member of the commission who voted in opposition to the recommendation by the commission on a proposed change may file a written statement of opposition with the planner prior to any council public hearing on the proposed change. The planner shall transmit a copy to each member of the council and place a copy in the record.

C. If the planning commission fails to recommend approval, approval with modification, or denial of the proposed legislative change within sixty days of its first public hearing on the proposed change, the planner shall:

1. Report the failure to approve a recommendation on the proposed change to the council; and
2. Cause notice to be given, the matter to be placed on the council's agenda, a public hearing to be held and a decision to be made by the council. No further action shall be taken by the planning commission.

D. The council shall:

1. Have the responsibility to approve, approve with modifications or deny an application for the legislative change or to remand to the planning commission for rehearing and reconsideration on all or part of an application transmitted to it under this title. The council may set conditions of approval that require conveyances and dedications of property needed for public use as a result of the development, title, plan or map amendment;

2. Consider the recommendation of the planning commission, however, it is not bound by the planning commission's recommendation; and

3. Act by ordinance on applications which are approved and shall be signed by the mayor after the council's adoption of the ordinance.

E. The approved legislative change shall take effect after adoption as specified in the enacting ordinance. (Ord. 634 §1 Exh. A (part), 1995)

17.160.140 Vote required for a legislative change. A. An affirmative vote by a majority of members of the planning commission present shall be required for a recommendation for approval, approval with modifications, or denial.

B. An affirmative vote by a majority of the members of the council present shall be required to decide any proposed change. (Ord. 634 §1 Exh. A (part), 1995)

17.160.170 Reapplication. If an application has been made and denied in accordance with the provisions set forth in this title or by action by the land use board of appeals, the land conservation and development commission, or the courts, no new application for the same or substantially similar change shall be

accepted within one year from the date of the final action denying the application; except the council may re-initiate an application upon a finding that there has been a substantial change in the facts surrounding the application or a change in policy which would support the reapplication. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.162

PROCEDURES FOR DECISION MAKING--QUASI-JUDICIAL

Sections:

- 17.162.010 Purpose.
- 17.162.020 Application process.
- 17.162.021 Consolidation of proceedings.
- 17.162.025 Noticing requirements.
- 17.162.030 Contents of notice for public hearings.
- 17.162.040 Failure to receive notice.
- 17.162.050 Time period for decision making.
- 17.162.090 Approval authority responsibilities.
- 17.162.110 Decision by the planner--No hearing required.
- 17.162.120 Notice of decision by the planner.
- 17.162.130 Hearings procedure.
- 17.162.140 Decision process.
- 17.162.150 Denial of the application--Re-submittal.
- 17.162.160 Record may remain open--Admission of new evidence.
- 17.162.170 Ex parte communications with approval authority.
- 17.162.180 Continuation of the hearing.
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- 17.162.210 Judicial notice.
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- 17.162.230 Record of proceeding for public hearings.
- 17.162.240 Form of the final decision.
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- 17.162.340 Persons entitled to notice of appeal--Type of notice.
- 17.162.350 Contents of notice of appeal.
- 17.162.360 Action on appeal.
- 17.162.380 Effective date of final action.
- 17.162.390 Revocation of approvals.

17.162.010 Purpose. The purpose of this chapter is to establish procedures for the consideration of development applications, for the consideration of quasi-judicial comprehensive plan or zoning amendments and for appeal of quasi-judicial decisions. (Ord. 634 §1 Exh. A (part), 1995)

17.162.020 Application process. A. The applicant shall be required to meet with the planner for a pre-application conference. Such a requirement may be waived in writing by the applicant.

B. At such conference, the planner shall:

1. Cite the applicable comprehensive plan policies and map designation;
2. Cite the applicable substantive and procedural ordinance provisions;
3. Provide available technical data and assistance which will aid the applicant as provided by the public works director;
4. Identify other policies and regulations that relate to the application; and
5. Identify other opportunities or constraints that relate to the application.

C. Another preapplication conference is required if an application is submitted six months after the preapplication conference.

D. Failure of the planner to provide any of the information required by this chapter shall not constitute a

waiver of the standards, criteria or requirements of the applications. Neither the city nor the planner shall be liable for any incorrect information provided in the pre-application conferences.

E. Applications for approval required under this title may be initiated by:

1. Resolution of the city council;
2. Resolution of the planning commission;
3. The planner;
4. A recognized neighborhood planning organization or city advisory board or commission; or
5. Application of a record owner of property or contract purchaser.

F. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

G. The application shall be made on forms provided by the planner.

H. The application shall:

1. Include the information requested on the application form;
2. Address appropriate criteria in sufficient detail for review and action;
3. Be accompanied by the required fee; and
4. Include a list of names and addresses of all persons who are surrounding property owners of record within two hundred feet. The records of the Columbia County department tax assessors office shall be the official records for determining ownership.

I. The planner may require information in addition to that required by a specific provision of this title, provided the planner determines this information is needed to properly evaluate the proposed development proposal; and the need can be justified on the basis of a special or unforeseen circumstance.

J. The planner may waive the submission of information for a specific requirement provided the planner finds that specific information is not necessary to properly evaluate the application; or the planner finds that a specific approval standard is not applicable to the application.

K. Where a requirement is found by the planner to be inapplicable, the planner shall:

1. Indicate for the record and to the applicant the specific requirements found inapplicable; and

2. Advise the applicant in writing that the finding may be challenged on appeal or at the hearing or decision on the matter and may be denied by the approval authority; and

3. Cite in the staff report on the application the specific requirements found inapplicable, the reasons therefor and the specific grant of authority.

L. An application shall be deemed incomplete unless it addresses each element required to be considered under applicable provisions of this title and the application form, unless that requirement has been found inapplicable by the planner. The planner shall not accept an incomplete application.

M. If an application is incomplete, the planner shall:

1. Notify the applicant within thirty days of receipt of the application of exactly what information is missing; and

2. Allow the applicant to submit the missing information.

N. The application shall be deemed complete when the missing information is provided and at that time the one hundred twenty-day time period shall begin to run for the purposes of satisfying state law.

O. If the applicant refuses to submit the missing information, the application shall be deemed incomplete on the thirty-first day after the planner first received the application and returned to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.162.021 Consolidation of proceedings. A. Except as provided in subsection C of this section, whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

B. In such cases as stated in subsection A of this section, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under Section 17.164.110, in the following order of preference: the council, the commission, or the planner.

C. Where there is a consolidation of proceedings:

1. The notice shall identify each action to be taken;

2. The decision on a plan map amendment shall precede the decision on the proposed zone change and other actions. Plan map amendments are not subject to the one hundred twenty-day decision making period prescribed by state law and such amendments may involve complex issues. Therefore, the planner shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings be consolidated and signs a waiver of the one

hundred twenty-day time limit prescribed by state law for zone change and permit applications; and

3. Separate actions shall be taken on each application.

D. Consolidated Permit Procedure.

1. Use of the consolidated permit procedures described in this section shall be at the election of the applicant.

2. When the consolidated procedure is elected, application and fee requirements shall remain as provided by resolution approved by the council. If more than one permit is required by this title or other ordinance to be heard by the planning commission or city council, each such hearing shall be combined with any other permit also requiring such hearing. The standards applicable to

each permits by this or any other ordinance shall be applied in the consolidated procedures to each application.

3. In a consolidated proceeding, the staff report and recommendation provided by the planner shall be consolidated into a single report.

4. All rules and ordinances of the city not in conflict with this section shall apply in a consolidated permit procedure. (Ord. 634 §1 Exh. A (part), 1995)

17.162.025 Noticing requirements. A. Notice of a pending quasi-judicial public hearing shall be given by the planner in the following manner:

1. At least twenty days prior to the scheduled hearing date, or if two or more hearings are scheduled, ten days prior to the first hearing, notice shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

b. All property owners of record or the most recent property tax assessment roll:

i. Within two hundred feet of the property which is the subject of the notice where the subject property is wholly or in part within the urban growth boundary,

ii. Within two hundred fifty feet of the property which is the subject of the notice where the subject property is outside the urban growth boundary and not within a farm or forest zone,

iii. Within five hundred feet of the property which is the subject of the notice where the subject property within a farm or forest zone,

iv. If the adjoining property(s) subject to the notice are excessively large lots, the notice of hearing shall be provided to a minimum of two adjoining property owners in each lot side direction;

c. Any governmental agency affected by the decision which has entered into an intergovernmental agreement with the city which includes provision for such notice;

d. Acknowledged neighborhood planning organizations, if active;

e. Any person who requests, in writing; and

f. The appellant and all parties to an appeal.

2. Notice of a hearing on a proposed zone change for a manufactured home park shall be given to tenants of that manufactured home park at least twenty days but no more than forty days prior to the hearing; and

3. The planner shall cause an affidavit of mailing of notice to be filed and made a part of the administrative record.

B. For all quasi-judicial decisions requiring a public hearing, the applicant shall post signs provided by the planner displaying notice of the pending hearing at least fourteen days prior to the date of the hearing. One sign shall be required for each three hundred feet, or part thereof, of frontage of the subject property on any street. The content, design, size and location of the signs shall be as determined by the planner to assure that the information is legible from the public right-of-way. As a precondition to a hearing, the applicant shall file an affidavit of such posting with the planner no less than ten days prior to the hearing.

C. For all quasi-judicial decisions requiring a public hearing, at least ten days prior to the hearing, notice shall be given in a newspaper of general circulation in the city. An affidavit of publication shall be made part of the administrative record. (Ord. 634 §1 Exh. A (part), 1995)

17.162.030 Contents of the notice for public hearings. Notice given to persons entitled to mailed or published notice pursuant to Section 17.28.120 shall include the following information:

A. A description of the subject property, the street address if available, and a general location which shall include tax map designations from the county assessor's office;

B. Except for notice published in the newspaper, a map showing the location of the property;

C. An explanation of the nature of the application and the proposed use or uses which could be authorized;

D. The applicable criteria from the ordinances and comprehensive plan that apply to the application;

E. The time, place and date of the public hearing;

F. A statement that both public oral and written testimony is invited, a general explanation of the requirements for submission of evidence and the procedure for conduct of the hearing;

G. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

H. A statement that all documents or evidence in the file are available for inspection at no cost, or copies at a reasonable cost;

I. A statement that a copy of the staff report will be available for inspection at no cost, or copies at reasonable cost, at least seven days prior to the hearing;

J. A statement that failure to raise an issue in the hearing or during the comment period, in person or by letter, or failure to provide sufficient specific detail to give the decision maker or hearing body an opportunity to respond to the issue, precludes appeal to the land use board of appeals on that issue. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue. (Ord. 634 §1 Exh. A (part), 1995)

17.162.040 Failure to receive notice. A. Where either the planning commission or council or both intend to hold more than one public hearing on the same application, notice of several public hearings before both approval authorities may be given in one notice.

B. The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.

C. Personal notice is deemed given when the notice is deposited with the United States Postal Service.

D. Published notice is deemed given on the date it is published.

E. In computing the length of time that notice is given, the first date notice is given shall be excluded and the day of the hearing or the date on which the appeal period expires shall be included unless the last day falls on any legal holiday or on Saturday, in which case, the last day shall be the next business day.

F. The records of the Columbia County assessor's office shall be the official records used for giving notice required in this title, and a person's name and address which is not on file at the time the notice mailing list is initially prepared is not a person entitled to notice. (Ord. 634 §1 Exh. A (part), 1995)

17.162.050 Time period for decision making. The city shall take final action on an application for a permit, plan change or zone change, including the resolution of all appeals, within one hundred twenty days after the application is deemed complete, except:

A. The one hundred twenty-day period may be extended for a reasonable period of time at the request of the applicant;

B. The one hundred twenty-day period applies only to a decision wholly within the authority and control of the city; and

C. The one hundred twenty-day period does not apply to an amendment to an acknowledged comprehensive plan or land use regulation. (Ord. 634 §1 Exh. A (part), 1995)

17.162.090 Approval authority responsibilities. A. The planner shall have the authority to approve, deny or approve with conditions the following applications:

1. Interpretations subject to Section 17.01.050;
2. Determination of parking requirements for unlisted uses;
3. Determination of visual clearance area pursuant to Chapter 17.102;
4. Determination of access, egress and circulation plan (not subject to planning commission approval) pursuant to public works design standards;
5. Sign, sign exception, and sign variance pursuant to Chapter 17.114;
6. Minor variance pursuant to Chapter 17.134;
7. Type I home occupation pursuant to Chapter 17.142;
8. Sensitive land permits (for applications not subject to planning commission approval) pursuant to Chapter 17.84, Chapter 17.85, Chapter 17.86.

B. The planner may refer any application for review to the planning commission.

C. The planning commission shall conduct a public hearing in the manner prescribed by this chapter and shall have the authority to approve, approve with conditions, approve with modifications or deny the following development applications:

1. Recommendations for applicable comprehensive plan and zoning district designations to city council for lands annexed to the city;
2. A quasi-judicial comprehensive plan map amendment except the planning commission's function shall be limited to a recommendation to the council. The commission may transmit their recommendation in any form and a final order need not be formally adopted;

3. A quasi-judicial zoning map amendment shall be decided in the same manner as a quasi-judicial plan amendment;

4. Conditional use pursuant to Chapter 17.130;
5. Major variance pursuant to Chapter 17.134;
6. Sensitive land permits and variances pursuant to Chapter 17.84, Chapter 17.85, Chapter 17.86 for applications requiring planning commission action;
7. Type II home occupation pursuant to Chapter 17.142;
8. Historic overlay district exterior alteration and new construction applications pursuant to Chapter 17.82;
9. Appeal of a decision made by the planner; and
10. Any other matter not specifically assigned to the planner, or the city council under this title.

D. Upon appeal or recommendation, the city council shall conduct a public hearing in the manner prescribed by this chapter and shall have the authority to approve, deny or approve with conditions the following development applications:

1. The formal imposition of plan and zone designations made to lands annexed to the city;
2. Appeals of quasi-judicial plan and zone amendments;
3. Matters referred to the council by the planning commission;
4. Review of decisions of the planning commission, whether on the council's own motion or otherwise. (Ord. 634 §1 Exh. A (part), 1995)

17.162.110 Decision by the planner--No hearing required. A. Pursuant to Section 17.162.090(A), the planner is authorized to make certain decisions, and no hearing shall be held unless:

1. An appeal is filed; or

2. The planner has an interest in the outcome of the decision, due to some past or present involvement with the applicant, other interested persons or in the property or surrounding property. In such cases, the application shall be treated as if it were filed under Section 17.162.090(C).

B. The decision shall be based on the approval criteria set forth in Section 17.162.140.

C. Notice of the decision by the planner shall be given as provided by Section 17.162.120 and notice shall be governed by the provisions of Section 17.162.030 and Section 17.162.040.

D. The record shall include:

1. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;

2. All correspondence relating to the application;

3. All information considered by the planner in making the decision;

4. The staff report of the planner;

5. A list of the conditions, if any are attached to the approval of the application; and

6. A copy of the notice advising of the planner's decision, a list of all persons who were given mailed notice and accompanying affidavits.

E. Standing to appeal shall be as provided by Section 17.162.200.

F. The appeal period shall be computed as provided by Section 17.162.210.

G. The method for taking the appeal shall be as provided by Subsection 17.162.220(A) and the notice of appeal submitted by an appellant shall be as provided by Section 17.162.250.

H. The hearing on the appeal shall be confined to the prior record as provided in Section 17.162.300.

I. Notice of the final decision on appeal shall be as provided by Section 17.162.250 and Section 17.162.240.

J. No decision by the planner may be modified from that set out in the notice except upon being given new notice.

K. The action on the appeal shall be as provided by Section 17.162.360.

L. A decision by the commission on an appeal of a planner's decision may be appealed to the council.

M. Re-submittal shall be as provided by Section 17.162.150.

N. The provisions of Section 17.162.390. (Ord. 634 §1 Exh. A (part), 1995)

17.162.120 Notice of decision by the planner. A. Notice of the planner's decision on an application pursuant to Section 17.162.090(A) shall be given by the planner in the following manner:

1. Within five days of signing the proposed decision, notice shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

b. All surrounding property owners or record of property within two hundred feet of the property for lot line adjustments, administrative variances and sensitive lands;

c. All owners of record of property immediately abutting a site for home occupations;

d. The applicant for a planner's interpretation or a planner's decision regarding an extension of approval;

e. The recognized neighborhood planning organization;

f. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city which includes provision for such notice; and

g. Any person who requests notice in writing.

B. The planner shall cause an affidavit of mailing to be filed and made a part of the administrative record.

C. Notice of a decision by the planner shall contain:

1. The nature of the application in sufficient detail to apprise persons entitled to notice of the applicant's proposal and of the decision;

2. The address and general location of the subject property;

3. A statement of where the adopted findings of fact, decision and statement of conditions can be obtained;

4. The date the planner's decision will become final;

5. A statement that a person entitled to notice or adversely affected or aggrieved by the decision may appeal the decision:

a. The statement shall explain briefly how an appeal can be made, the deadlines and where information can be obtained, and

b. The statement shall explain that if an appeal is not filed, the decision shall be final;

6. A map showing the location of the property (planner's interpretations are exempt from this requirement); and

7. A statement that the hearing on an appeal will be confined to the prior record. (Ord. 634 §1 Exh. A (part), 1995)

17.162.130 Hearings procedure. A. Unless otherwise provided in this title or other ordinances adopted by council:

1. The presiding officer of the planning commission and of the council shall have the authority to:

a. Determine standing;

b. Regulate the course, sequence and decorum of the hearing;

c. Dispose of procedural requirements or similar matters;

d. Rule on offers of proof and relevancy of evidence and testimony;

e. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony; and

f. Take such other action appropriate for conduct commensurate with the nature of the hearing;

B. Unless otherwise provided in this title or other ordinances adopted by council, the presiding officer of the planning commission and of the council shall conduct the hearing as follows:

1. Opening statement: announce the nature and purpose of the hearing and summarize the rules of conducting the hearing, and if the proceeding is an initial evidentiary hearing before the planning commission or the city council, make a statement that:

a. Lists the applicable substantive criteria;

b. States that testimony and evidence must be directed toward the criteria described in subdivision (1) (a) of this subsection, or to the other criteria in the comprehensive plan or the title which the apply to the decision;

c. States that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to the land use board of appeals on that issue.

2. Quasi-judicial hearing process:

a. Recognize parties;

b. Request the planner to present the staff report, to explain any graphic or pictorial displays which are a part of the report, summarize the findings, recommendations and conditions, if any, and to provide such other information as may be requested by the approval authority;

c. Allow the applicant or a representative of the applicant to be heard;

d. Allow parties or witnesses in favor of the applicant's proposal to be heard;

e. Allow parties or witnesses in opposition to the applicant's proposal to be heard;

f. Upon failure of any party to appear, the approval authority shall take into consideration written material submitted by such party;

g. Allow the parties in favor of the proposal to offer rebuttal evidence and testimony limited to rebuttal of points raised.

h. Make a decision pursuant to Section 17.162.140 or take the matter under advisement pursuant to Section 17.162.180.

C. Unless otherwise provided in this title or other ordinances adopted by the council, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time before the close of the hearing, and the answers shall be limited to the substance of the question;

2. Parties or the planner must receive approval from the approval authority to submit questions directly to other parties or witnesses or the planner;

3. A reasonable amount of time shall be given to persons to respond to questions;

4. No person shall testify without first receiving recognition from the approval authority and stating his full name and address;

5. The approval authority may require that testimony be under oath or affirmation;

6. Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of persons responsible; and

7. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing. (Ord. 634 §1 Exh. A (part), 1995)

17.162.140 Decision process. A. The decision shall be based on:

1. Proof by the applicant that the application fully complies with:

a. Applicable policies of the city comprehensive plan; and

b. The relevant approval standards found in the applicable chapter(s) of this title, the public works design standards, and other applicable implementing ordinances.

B. Consideration may also be given to:

1. Proof of a substantial change in circumstances or a mistake in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application; and

2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsections (A) or (B) (1) of this section.

C. In all cases, the decision shall include a statement in a form addressing the planner's staff report.

D. The approval authority may:

1. Adopt findings and conclusions contained in the staff report;

2. Adopt findings and conclusions of a lower approval authority;

3. Adopt its own findings and conclusions;

4. Adopt findings and conclusions submitted by any party provided all parties have had an opportunity to review the findings and comment on the same; or

5. Adopt findings and conclusions from another source, either with or without modification, having made a tentative decision, and having directed staff to prepare findings for review and to provide an opportunity for all parties to comment on the same.

E. The decision may be for denial, approval or approval with conditions.

1. Conditions may be imposed where such conditions are necessary to:
a. Carry out applicable provisions of the Scappoose comprehensive plan;

b. Carry out the applicable implementing ordinances; and
c. Ensure that adequate public services are provided to the development or to ensure that other required improvements are made;

2. Conditions may include, but are not limited to:

- a. Minimum lot sizes;
- b. Larger setbacks;
- c. Preservation of significant natural features;
- d. Dedication of easements; and
- e. Conveyances and dedications of property needed for public use.

3. Conditions of approval shall be fulfilled within the time limit set forth in the decision or, if no time limit is set forth, the conditions of approval shall be fulfilled within one year. Failure to fulfill any condition of approval within the time limitations provided may be grounds for revocation of approval, after notice and an opportunity to be heard as a quasi-judicial action;

4. Changes, alterations or amendments to the substance of the conditions of approval shall be processed as a new action;

5. Prior to the commencement of development, i.e., the issuance of any permits or the taking of any action under the approved development application, the owner and any contract purchasers of the property which is the subject of the approved application, may be required to sign and deliver to the planner their acknowledgment in a development agreement and consent to such conditions:

a. The city manager shall have the authority to execute the development agreement on behalf of the city,

b. No building permit shall be issued for the use covered by the application until the executed contract is recorded and filed in the county records, and

c. Such development agreement shall be enforceable against the signing parties, their heirs, successors and assigns by the city by appropriate action in law or suit in equity;

6. A bond in a form acceptable to the city or a cash deposit from the property owners or contract purchasers for the full amount as will ensure compliance with the conditions imposed pursuant to this subsection may be required. Such bond or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

F. The final decision on the application may grant less than all of the parcel which is the subject of the application.

G. If the planning commission fails to recommend approval, approval with modification, or denial of an application within sixty days of its first public hearing, the planner shall:

1. Report the failure to approve a recommendation to the council; and
2. Cause notice to be given, the matter to be placed on the council's agenda, a public hearing to be held and a decision to be made by the council.

No further action shall be taken by the planning commission. (Ord. 634 §1 Exh. A (part), 1995)

17.162.150 Denial of the application--Re-submittal. An application which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the land use board of appeals, the land conservation and development commission or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least twelve months from the date the final city action is made denying the application unless there is a substantial change in the facts or a change in city policy which would change the outcome. (Ord. 634 §1 Exh. A (part), 1995)

17.162.160 Record may remain open--Admission of new evidence. A. Unless there is a continuance, the record shall remain open for new evidence for at least seven days at the request of any participant in the initial evidentiary hearing before the planning commission or the city council, if the request is made prior to the conclusion of the hearing.

B. When the record is left open to admit new evidence, testimony, or criteria for decision-making, any person may raise new issues which relate to that new material. (Ord. 634 §1 Exh. A (part), 1995)

17.162.170 Ex parte communications with approval authority. A. Members of the approval authority shall not:

1. Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved except upon giving notice and opportunity for all parties to participate; nor

2. Take notice of any communication, report or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.

B. No decision or action of the planning commission or council shall be invalid due to an ex parte contact or bias resulting from an ex parte contact with a member of the decision making body, if the member of the decision making body receiving the contact:

1. Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

2. Makes a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

C. Members of the planning commission shall be governed by the provisions of Oregon Revised Statute 227.035 and the provisions of this section.

D. This section shall not apply to planner decisions made under Section 17.162.090 (A).

E. A communication between any city employee and the planning commission or council shall not be considered an ex parte contact. (Ord. 634 §1 Exh. A (part), 1995)

17.162.180 Continuation of the hearing. A. An approval authority may continue the hearing from time to time to gather additional evidence, to consider the application fully or to give notice to additional persons.

B. Unless otherwise provided by the approval authority, no additional notice need be given of a continued hearing if the matter is continued to a date, time and place certain. (Ord. 634 §1 Exh. A (part), 1995)

17.162.200 Evidence. A. All evidence offered and not objected to may be received unless excluded by the approval authority on its own motion.

B. Evidence received at any hearing shall be of a quality that reasonable persons rely upon in the conduct of their everyday affairs.

C. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence.

D. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to ORS 183.450, except as otherwise provided for in this title.

E. Formal rules of evidence, as used in courts of law, shall not apply. (Ord. 634 §1 Exh. A (part), 1995)

17.162.210 Judicial notice. A. The approval authority may take notice of the following:

1. All facts which are judicially noticeable. Such noticed facts shall be stated and made part of the record;

2. The Statewide Planning Goals and regulations adopted pursuant to Oregon Revised Statutes Chapter 197; and

3. The comprehensive plan and other officially adopted plans, implementing ordinances, rules and regulations of the city.

B. Matters judicially noticed need not be established by evidence and may be considered by the approval authority in the determination of the application. (Ord. 634 §1 Exh. A (part), 1995)

17.162.220 Participation in the decision--Voting. A. In addition to the provision of Oregon Revised Statute 227.035 which applies to planning commission members or Oregon Revised Statutes Chapter 244 which applies to all members of an approval authority, each member of the approval authority shall be impartial. Any member having any substantial past or present involvement with the applicant, other interested persons, the property or surrounding property, or having a financial interest in the outcome of the proceeding, or having any pre-hearing contacts, shall state for the record the nature of their involvement or contacts, and shall either:

1. State that they are not prejudiced by the involvement or contacts and will participate and vote on the matter; or

2. State that they are prejudiced by the involvement or contact and will withdraw from participation in the matter.

B. An affirmative vote by a majority of the qualified voting members of the approval authority who are present is required to approve, approve with conditions, or deny an application or to amend, modify, or reverse a decision on appeal.

C. Notwithstanding subsections A and B of this section, no member of an approval authority having a financial interest in the outcome of an application shall take part in proceedings on that application; provided, however, with respect to the council only, a member may vote upon a finding of necessity which shall be placed on the record by the presiding officer.

D. In an appeal, if there is a tie vote, the decision which is the subject of appeal shall stand. (Ord. 634 §1 Exh. A (part), 1995)

17.162.230 Record of proceeding for public hearings. A. A verbatim record of the proceeding shall be made by mechanical means (such as a tape recording), and:

1. It shall not be necessary to transcribe testimony except as provided for in Section 17.162.310.

2. The minutes or (if applicable) transcript of testimony, or other evidence of the proceedings, shall be part of the record.

B. All exhibits received shall be marked so as to provide identification upon review.

C. The record shall include:

1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and recorded or considered by the approval authority as evidence;

2. All materials submitted by the planner to the approval authority with respect to the application including in the case of an appeal taken pursuant to Section 17.162.270, the record of the planner's decision as provided by Section 17.162.110;

3. The transcript of the hearing, if requested by the council or a party, or the minutes of the hearing, or other evidence of the proceedings before the approval authority;

4. The written findings, conclusions, decision and, if any, conditions of approval of the approval authority;

5. Argument by the parties or their legal representatives permitted in Section 17.162.300 at the time of review before the council;

6. All correspondence relating to the application; and

7. A copy of the notice which was given as provided by Section 17.162.030, accompanying affidavits and list of persons who were sent mailed notice. (Ord. 634 §1 Exh. A (part), 1995)

17.162.240 Form of the final decision. A. The final decision shall be a decision which is in writing and which has been signed by the planner.

B. The final decision shall be filed in the records of the planner within ten calendar days after the decision is made by the approval authority, and notice thereof shall be mailed to the applicant and all parties in the action, and shall be available to the approval authority. (Ord. 634 §1 Exh. A (part), 1995)

17.162.250 Notice of final decision. A. Notice of a final decision shall briefly summarize the decision and contain:

1. A statement that all required notices under Section 17.162.025;

2. A statement of where the adopted findings of fact, decision and statement of conditions can be obtained;

3. The date the final decision was filed; and

4. A statement of whether a party to the proceeding may seek appeal of the decision, as appropriate, to wit:

a. In the case of a final decision by the council, the statement shall explain that this decision is final and how appeal may be heard by a higher authority; or

b. In the case of a final decision by the planning commission, the statement shall explain briefly how an appeal can be taken to the council pursuant to Section 17.162.290, the deadlines, and where information can be obtained.

B. Notice of the final decision by the planning commission or council shall be mailed to the applicant and to all the parties to the decision, and shall be made available to the members of the council. (Ord. 634 §1 Exh. A (part), 1995)

17.162.260 Amending a decision by the planner. A. The planner may issue an amended decision after the notice of final decision has been issued and prior to the end of the ten-day appeal period.

B. A request for an amended decision shall be in writing, and filed with the planner not more than eight days after the notice of final decision has been filed.

C. A request for an amended decision may be filed by:

1. The recognized neighborhood planning organization affected by the initial decision;
2. Resolution of the city council;
3. Resolution of the planning commission;
4. The planner;
5. Any party entitled to notice of the original decision; or
6. Any party who submitted comments in writing on the original decision.

D. The amended decision process shall be limited to one time for each original application.

E. The planner shall make the determination as to issuance of an amended decision based on findings that one or more of the following conditions exist:

1. An error or omission was made on the original notice of final decision;
2. The original decision was based on incorrect information and incorrect information may only be considered in administrative actions before the planner;
3. New information becomes available during the appeal period which was not available when the decision was made which alters the facts or conditions in the original decision. New information may only be considered in administrative actions before the planner.

F. An amended decision shall be processed in accordance with Section 17.162.120 of this title. (Ord. 634 §1 Exh. A (part), 1995)

17.162.270 Standing to appeal. A. In the case of a decision by the planner, any person entitled to notice of the decision under this chapter, or any person who is adversely affected or aggrieved by the decision, may file a notice of appeal as provided by Section 17.162.320.

B. In the case of a decision by the planning commission, except for a decision on an appeal of the planner's decision, any person shall be considered a party to a matter, thus having standing to seek appeal, provided:

1. The person appeared before the planning commission orally or in writing:
 - a. The person was entitled as of right to notice and hearing prior to the decision to be reviewed; or
 - b. The person is aggrieved or has interests adversely affected by the decision. (Ord. 634 §1 Exh. A (part), 1995)

17.162.280 Computation of appeal period. A. The length of the appeal period shall be fifteen days from the date of mailing the notice of decision.

B. In computing the length of the appeal period, the day that notice of the decision is mailed shall be excluded and the last day for filing the appeal shall be included unless the last day falls on a legal holiday for the city or on a Saturday, in which case, the last day shall be the next business day. (Ord. 634 §1 Exh. A (part), 1995)

17.162.290 Determination of appropriate appeal body. A. All appeals of decisions or interpretations made by the planner may be appealed to the planning commission or pursuant to Section 17.162.090 except the council may, on its own motion, seek to hear the matter by voice vote prior to the effective date of the notice of the decision.

B. Any decision made by the planning commission under this chapter may be reviewed by the council by:

1. The filing of a notice of appeal as provided by Section 17.162.320, by any party to the decision by three- thirty p.m. on the last day of the appeal period;

2. The council or planning commission, on its own motion, seeking appeal by voice vote prior to the end of the appeal period; or

3. Referral of a matter under Section 17.162.090 (D) by the initial hearings body to the council, upon closure of the hearing, when the case presents a policy issue which requires council deliberation and determination, in which case the council shall decide the application.

C. Failure to file an available appeal shall be deemed a failure to exhaust administrative remedies. The filing of available appeals is a condition precedent to appeal to the land use board of appeals. (Ord. 634 §1 Exh. A (part), 1995)

17.162.300 Type of appeal hearing--Limitations of appeal. A. The appeal of a decision made by the planner under Section 17.162.090(A) or Section 17.162.110, shall be confined to the prior record and conducted as if brought under Section 17.162.090(B) or (C).

B. The appeal of a decision of the planning commission to the council shall be:

1. Confined to the record of the proceedings unless council determines the admission of additional evidence is appropriate;

2. Limited to the grounds relied upon in the notice of appeal and the hearing shall be conducted in accordance with the provisions of this chapter.

C. The subject of written and oral argument. Such written argument shall be submitted not less than five days prior to council consideration; and

D. Reviews on the record by council of planning commission decisions shall be completed within forty days of when the notice of appeal is filed. (Ord. 634 §1 Exh. A (part), 1995)

17.162.310 Transcripts. A. The appellant shall be responsible to satisfy all costs incurred for preparation of the transcript. An estimated payment shall be made prior to the preparation of the transcript; any additional actual cost shall be paid prior to the hearing or if the actual cost is less than the estimate the remainder shall be returned.

B. Any party other than the appellant that requests a transcript shall be charged the actual copy costs. (Ord. 634 §1 Exh. A (part), 1995)

17.162.320 Notice of appeal. A. The notice of appeal shall be filed within the appeal period and contain:

1. A reference to the application sought to be appealed;

2. A statement of the petitioner's standing to the appeal;

3. The specific grounds for the appeal; and

4. The date of the final decision on the action or, in the case of a decision by the planner, the date the decision was filed;

B. The appeal application shall be accompanied by the required fee except as allowed under Section 17.162.330. (Ord. 634 §1 Exh. A (part), 1995)

17.162.330 Fee waivers. A. Fees for land use applications and appeals of a land use decision shall be waived for a recognized neighborhood planning organization (NPO) if all of the following conditions are met:

1. The appeal or land use application must have been supported by a majority vote of NPO members at a public meeting where a quorum of NPO members was present;

2. A copy of the minutes of the NPO meeting where the appeal or land use application was initiated must be submitted with the appeal or land use application;

3. The appeal or application will be considered valid when conditions (1) and (2) of this section are met and all other filing requirements are met; and

4. The NPO chairperson or designated representative shall appear at the next available city council meeting after the application or appeal is filed to request a waiver. The NPO shall work through the Planning Division to schedule the item on a council agenda.

B. Council may, on its own motion and by voice vote, waive the appeal fee for other nonprofit organizations. (Ord. 634 §1 Exh. A (part), 1995)

17.162.340 Persons entitled to notice of appeal--Type of notice. Upon appeal, notice shall be given to parties entitled to notice under Sections 17.162.025 and 17.162.270. (Ord. 634 §1 Exh. A (part), 1995)

17.162.350 Contents of notice of appeal. Notice shall include those matters provided by Section 17.162.030. (Ord. 634 §1 Exh. A (part), 1995)

17.162.360 Action on appeal. A. The appellate authority shall affirm, reverse or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of Section 17.162.140; or

B. Upon the written consent of all parties to extend the one hundred twenty-day limit, the appellate authority may remand the matter if it is satisfied that testimony or other evidence could not have been presented or was not available at the time of the initial hearing. In deciding to remand the matter, the appellate authority shall consider and make findings and conclusions regarding:

1. The prejudice to parties,
2. The convenience or availability of evidence at the time of the initial hearing,
3. The surprise to opposing parties,
4. The date notice was given to other parties as to an attempt to admit, or
5. The competency, relevancy and materiality of the proposed testimony or other evidence. (Ord. 634 §1 Exh. A (part), 1995)

17.162.380 Effective date of final action. A. Within ten days of the filing of the final order of council, the planner shall give notice of the final order to all parties to the proceeding, informing them of the date of filing, the decision rendered, and where a copy may be found.

B. Action by the appellate authority on appeal shall be final and effective on the day of mailing notice of the final order. (Ord. 634 §1 Exh. A (part), 1995)

17.162.390 Revocation of approvals. A. The hearings authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter for any of the following reasons:

1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional;
2. A failure to comply with the terms and conditions of approval;
3. A failure to use the premises in accordance with the terms of the approval; or
4. A material misrepresentation or mistake of fact or policy by the city in the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional.

B. In the case of a decision made by the planner, the hearing on whether to modify or revoke an approval shall be held by the planning commission.

C. A petition for appeal of a revocation or modification may be filed in the same manner as provided by Section 17.162.290. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.164

PROCEDURES FOR DECISION MAKING--LIMITED LAND USE DECISIONS

Sections:

- 17.164.010 Purpose.
- 17.164.020 General policies.
- 17.164.025 Consolidation of proceedings.
- 17.164.030 Application process.
- 17.164.040 Time period for decision making.
- 17.164.110 Approval authority responsibilities.
- 17.164.130 Notice requirements.
- 17.164.140 Decision procedure.
- 17.164.150 Decision process.
- 17.164.160 Notice of decision.
- 17.164.180 Record of proceeding.
- 17.164.190 Appeal.
- 17.164.200 Denial of application--Re-submittal.

17.164.010 Purpose. The purpose of this chapter is to establish procedures for limited land use decisions. (Ord. 634 §1 Exh. A (part), 1995)

17.164.020 General policies. A. A limited land use decision is a final decision or determination made by the planning commission pertaining to a site within the urban growth boundary which concerns: (a) the approval or denial of a subdivision or partition; or (b) the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site development review.

B. A limited land use decision shall be consistent with applicable provisions of the comprehensive plan and this title consistent with ORS 197.195(1).

C. Such decisions may include conditions authorized by law.

E. A limited land use decision is not subject to the requirements of Chapter 17.162.

F. Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth. (Ord. 634 §1 Exh. A (part), 1995)

17.164.025 Consolidation of proceedings. A. Except as provided in subsection C of this section, whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

B. In such cases as stated in subsection A of this section, the hearings shall be held by the approval authority having original jurisdiction over one of

the applications under Section 17.164.110 in the following order of preference: the council, the commission or the planner.

C. Where there is a consolidation of proceedings:

1. The notice shall identify each action to be taken;
2. The decision on a plan map amendment shall precede the decision on the proposed zone change and other actions. Plan map amendments are not subject to the one hundred twenty-day decision making period prescribed by state law and such amendments may involve complex issues. Therefore, the planner shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings be consolidated and signs a waiver of the one hundred twenty-day time limit prescribed by state law for zone change and permit applications; and

3. Separate actions shall be taken on each application.

D. Consolidated Permit Procedure.

1. Use of the consolidated permit procedures described in this section shall be at the election of the applicant.

2. When the consolidated procedure is elected, application and fee requirements shall remain as provided by resolution approved by the council. If more than one permit is required by this title or other ordinance to be heard by the planning commission or city council, each such hearing shall be combined with any other permit also requiring such hearing. The standards applicable to each permits by this or any other ordinance shall be applied in the consolidated procedures to each application.

3. In a consolidated proceeding, the staff report and recommendation provided by the planner shall be consolidated into a single report.

4. All rules and ordinances of the city not in conflict with this section shall apply in a consolidated permit procedure. (Ord. 634 §1 Exh. A (part), 1995)

17.164.030 Application process. A. The applicant shall be required to meet with the planner for a pre-application conference. Such a requirement may be waived in writing by the applicant.

B. At the pre-application conference if conducted, the planner shall:

1. Cite the applicable comprehensive plan policies and map designation;
2. Cite the applicable substantive and procedural ordinance provisions;
3. Provide available technical data and assistance which will aid the applicant as provided by the public works director;

4. Identify other policies and regulations that relate to the application; and

5. Identify other opportunities or constraints that relate to the application.

C. Another preapplication conference is required if an application is submitted six months after the preapplication conference.

D. Failure of the planner to provide any of the information required by this chapter shall not constitute a waiver of the standards, criteria or requirements of the applications. Neither the city nor the planner shall be liable for any incorrect information provided in the pre-application conferences.

E. Applications for approval required under this title may be initiated by application of a record owner of property or contract purchaser.

F. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

G. The application shall be made on forms provided by the planner.

H. The application shall:

1. Include the information requested on the application form;

2. Address appropriate criteria in sufficient detail for review and action;
3. Be accompanied by the required fee; and
4. Include a list of names and addresses of all persons who are surrounding property owners of record within one hundred feet. The records of the Columbia County

Department Tax Assessors Office shall be the official records for determining ownership.

I. The planner may require information in addition to that required by a specific provision of this title, provided the planner determines this information is needed to properly evaluate the proposed development proposal; and the need can be justified on the basis of a special or unforeseen circumstance.

J. The planner may waive the submission of information for a specific requirement provided the planner finds that specific information is not necessary to properly evaluate the application; or the planner finds that a specific approval standard is not applicable to the application.

K. Where a requirement is found by the planner to be inapplicable, the planner shall:

1. Indicate for the record and to the applicant the specific requirements found inapplicable; and
2. Advise the applicant in writing that the finding may be challenged on appeal or at the hearing or decision on the matter and may be denied by the approval authority; and
3. Cite in the staff report on the application the specific requirements found inapplicable, the reasons therefor and the specific grant of authority.

L. An application shall be deemed incomplete unless it addresses each element required to be considered under applicable provisions of this title and the application form, unless that requirement has been waived by the planner. The planner shall not accept an incomplete application.

M. If an application is incomplete, the planner shall:

1. Notify the applicant within thirty days of receipt of the application of exactly what information is missing; and
2. Allow the applicant to submit the missing information.

N. The application shall be deemed complete when the missing information is provided and at that time the one hundred twenty-day time period shall begin to run for the purposes of satisfying state law.

O. If the applicant refuses to submit the missing information, the application shall be deemed incomplete on the thirty-first day after the planner first received the application and returned to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.164.040 Time period for decision making. The city shall take final action on an application for a limited land use decision including the resolution of all appeals within one hundred twenty days after the application is deemed complete, except:

- A. The one hundred twenty-day period may be extended for a reasonable period of time at the request of the applicant; and
- B. The one hundred twenty-day period applies only to a decision wholly within the authority and control of the city. (Ord. 634 §1 Exh. A (part), 1995)

17.164.110 Approval authority responsibilities. A. The planner shall have the authority to approve, deny or approve with conditions the following applications:

1. Minor partitions pursuant to Chapter 17.152;

2. Property line adjustments pursuant to Chapter 17.152.

B. The planning commission shall have the authority to approve, deny or approve with conditions the following applications:

1. Subdivisions pursuant to Chapter 17.150;
2. Major partitions pursuant to Chapter 17.152;
3. Site development review pursuant to Chapter 17.120.

C. The decision shall be based on the approval criteria set forth in Section 17.164.150. (Ord. 634 §1 Exh. A (part), 1995)

17.164.130 Notice requirements. A. The planner shall provide written notice to owners of property within one hundred feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.

B. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

C. Subdivisions, major partitions and site development review shall require that the applicant post signs provided by the planner displaying notice of the pending decision for at least fourteen days prior to the date of the decision. One sign shall be required for each three hundred feet, or part thereof, of frontage of the subject property on any street. The content, design, size and location of the signs shall be as determined by the planner to assure that the information is legible from the public

right-of-way. As a precondition to a decision by the planning commission, the applicant shall file an affidavit of such posting with the planner no less than ten days prior to the scheduled date of decision.

D. Subdivisions, major partitions and site development review shall require notice to be printed in the local newspaper at least fourteen days prior to the hearing clearly identifying the decision that is pending, stating that there is no public hearing, there is a fourteen-day period for public written comment regarding the pending limited land use decision and including the expiration date for receipt of written comments.

E. Notices mailed to property owners shall include the following information:

1. A description of the subject property and a general location which shall include tax map designations from the county assessor's office;
2. A map showing the location of the subject property;
3. A description of what the application will entitle the applicant to do and what the applicable criteria for the decision are;
4. State that a fourteen-day period for submission of written comments is provided prior to the decision;
5. State the place, date and time that the written comments are due;
6. State that copies of all documents or evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
7. A statement that issues which may provide the basis for an appeal to the land use board of appeals must be raised in writing during the comment period and comments must be sufficiently specific give the decision maker or hearing body an opportunity to respond to the issue;
8. A statement that a limited land use decision does not require:
 - a. Interpretation or the exercise of policy or legal judgement, or
 - b. A public hearing;
9. The address and phone number of the planner's office where additional information can be obtained;

10. A statement that the applicant and any person who submits written comments during the fourteen-day period shall receive notice of the decision.

F. The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.

G. Personal notice is deemed given when the notice is deposited with the United States Postal Service.

H. In computing the length of time that notice is given, the first date notice is given shall be excluded and the day of the hearing or the date on which the appeal period expires shall be included unless the last day falls on any legal holiday or on Saturday, in which case, the last day shall be the next business day.

I. The records of the Columbia County assessor's office shall be the official records used for giving notice required in this title, and a person's name and address which is not on file at the time the notice mailing list is initially prepared is not a person entitled to notice. (Ord. 634 §1 Exh. A (part), 1995)

17.164.140 Decision procedure. The planning commission limited land use decision shall be conducted as follows:

A. Request the planner to present the staff report, to explain any graphic or pictorial displays which are a part of the report, summarize the findings, recommendations and conditions, if any, and to provide such other information as may be requested by the approval authority;

B. Allow the applicant or a representative of the applicant discuss the application and respond to the staff report;

C. Request the planner read all written comments into the record;

D. Allow the applicant to respond to all written comments;

E. Make a decision pursuant to Section 17.164.150 or continue the decision to gather additional evidence or to consider the application further. (Ord. 634 §1 Exh. A (part), 1995)

17.164.150 Decision process. A. The decision shall be based on proof by the applicant that the application fully complies with:

1. The city comprehensive plan; and

2. The relevant approval standards found in the applicable chapter(s) of this title and other applicable implementing ordinances;

B. Consideration may also be given to:

1. Proof of a substantial change in circumstances; and

2. Factual written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in subsections (A) or (B) (1) of this section.

C. In all cases, the decision shall include a statement in a form addressing the requirements or criteria outlined in the planner's staff report.

D. The planning commission may:

1. Adopt findings and conclusions contained in the staff report;

2. Adopt its own findings and conclusions;

3. Adopt findings and conclusions submitted by any party provided all parties have had an opportunity to review the findings and comment on the same; or

4. Adopt findings and conclusions from another source, either with or without modification, having made a tentative decision, and having directed staff to prepare findings for review and to provide an opportunity for all parties to comment on the same.

E. The decision may be for denial, approval or approval with conditions. Conditions may be imposed where such conditions are necessary to:

1. Carry out applicable provisions of the Scappoose comprehensive plan;
2. Carry out the applicable implementing ordinances;
3. Ensure that adequate public services are provided to the development or to ensure that other required improvements are made;
4. Conditions may include, but are not limited to:
 - a. Minimum lot sizes,
 - b. Larger setbacks,
 - c. Preservation of significant natural features,
 - d. Dedication of easements, and
 - e. Conveyances and dedications of property needed for public use;
5. Conditions of approval shall be fulfilled within the time limit set forth in the decision or, if no time limit is set forth, the conditions shall be fulfilled within one year. Failure to fulfill any condition of approval within the time limitations provided may be grounds for revocation of approval, after notice and an opportunity to be heard by the planning commission;
6. Prior to the commencement of development, i.e., the issuance of any permits or the taking of any action under the approved development application, the owner and any contract purchasers of the property which is the subject of the approved application may be required to sign and deliver to the planner their acknowledgment in a development agreement and consent to such conditions;
 - a. The city manager shall have the authority to execute such development agreements on behalf of the city,

b. No building permit shall be issued for the use covered by the application until the executed contract is recorded in the county records, and

c. Such development agreements shall be enforceable against the signing parties, their heirs, successors and assigns by the city by appropriate action in law or suit in equity;

6. A bond in a form acceptable to the city or a cash deposit from the property owners or contract purchasers for the full amount as will ensure compliance with the conditions imposed may be required. Such bond or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

F. The final decision on the application may grant less than all of the parcel which is the subject of the application. (Ord. 634 §1 Exh. A (part), 1995)

17.164.160 Notice of decision. A. The applicant and any person who submits written comments during the fourteen-day period shall be entitled to receive the notice of decision.

B. The notice of decision shall include:

1. A brief statement of the local decision-making process including the procedures, criteria and standards considered relevant to the decision, the facts relied upon in rendering the decision and an explanation of the justification for the decision based on the criteria, standards and facts set forth;

2. An explanation of the appeal rights. (Ord. 634 §1 Exh. A (part), 1995)

17.164.180 Record of proceeding. The record shall include:

A. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;

B. All testimony, evidence and correspondence relating to the application;

C. All information considered by the planning commission in making the decision;

D. The staff report of the planner;

E. A list of the conditions, if any are attached to the approval of the application; and

F. A copy of the notice advising of the decision which was given pursuant to Section 17.164.160 and accompanying affidavits, and a list of all persons who were given mailed notice. (Ord. 634 §1 Exh. A (part), 1995)

17.164.190 Appeal. A. Standing to Appeal.

1. Any person shall be considered a party to a matter, thus having standing to seek appeal, provided:

a. The person submitted written comments to the commission during the fourteen-day period prior to the decision and the person was entitled as of right to notice and hearing prior to the decision to be reviewed; or

b. The person is aggrieved or has interests adversely affected by the decision.

B. Computation of Appeal Period.

1. The length of the appeal period shall be fifteen days from the date of the decision.

2. In computing the length of the appeal period, the day of the decision is mailed shall be excluded and the last day for filing the appeal shall be included unless the last day falls on a legal holiday for the city or on a Saturday, in which case, the last day shall be the next business day.

C. Determination of Appropriate Appeal Body.

1. Any decision made by the planner under this chapter may be reviewed by the planning commission by:

a. The filing of a notice of appeal and payment of required fees by any party to the decision by five p.m. on the last day of the appeal period;

b. The council or planning commission, on its own motion, seeking appeal by voice vote prior to the end of the appeal period; or

c. Referral of a matter under Section 17.164.110 to the council when the case presents a policy issue which requires council deliberation and determination, in which case the council shall decide the application.

2. Any decision made by the planning commission under this chapter, may be reviewed by the council by:

a. The filing of a notice of appeal and payment of required fees by any party to the decision before five p.m. on the last day of the appeal period;

b. The council or planning commission, on its own motion, seeking appeal by voice vote prior to the end of the appeal period; or

c. Referral of a matter under Section 17.164.110 to the council when the case presents a policy issue which requires council deliberation and determination, in which case the council shall decide the application.

3. Failure to file an available appeal shall be deemed a failure to exhaust administrative remedies. The filing of available appeals is a condition precedent to appeal to the land use board of appeals.

D. The notice of appeal shall be filed within the appeal period and contain:

1. A reference to the application sought to be appealed;

2. A statement of the petitioner's standing to the appeal;

3. The specific grounds for the appeal;

4. The date of the decision on the action;

5. The applicable fees.

E. The appeal hearing shall be confined to the prior record.

F. Upon appeal, notice shall be given to parties who are entitled to notice under Section 17.164.130.

G. The appellate authority shall affirm, reverse or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the

provisions of Section 17.164.150; or upon the written consent of all parties to extend the one hundred twenty-day limit, the appellate authority may remand the matter if it is satisfied that testimony or other evidence could not have been presented or was not available at the time of the initial decision. In deciding to remand the matter, the appellate authority shall consider and make findings and conclusions regarding:

1. The prejudice to parties;
2. The convenience or availability of evidence at the time of the initial hearing;

3. The surprise to opposing parties;

4. The date notice was given to other parties as to an attempt to admit;

or

5. The competency, relevancy and materiality of the proposed testimony or other evidence.

H. The hearings authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter for any of the following reasons:

1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional;

2. A failure to comply with the terms and conditions of approval;

3. A material misrepresentation or mistake of fact or policy by the city in the written or oral report regarding the matter whether such misrepresentation be intentional or unintentional. (Ord. 634 §1 Exh. A (part), 1995)

17.164.200 Denial of the application--Re-submittal. An application which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the land use board of appeals, the land conservation and development commission or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least twelve months from the date the final city action is made denying the application unless there is a substantial change in the facts or a change in city policy which would change the outcome. (Ord. 634 §1 Exh. A (part), 1995)

Chapter 17.168 Timber harvesting and exporting RULES

Sections:

17.168.010 Definition.

17.168.020 Exemptions.

17.168.030 Bids.

17.168.040 Hearings process.

17.168.050 Penalties.

17.168.060 Enforcement.

17.168.010 Definition. "Unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. "Unprocessed timber" does not include:

A. Lumber or construction timbers meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on four sides, not intended for remanufacturer;

B. Lumber, construction timbers or cants for remanufacture meeting current American Lumber Standards Grades Pacific Lumber Inspection Bureau Export R or N list grades, sawn on four sides, not to exceed twelve inches in thickness;

C. Lumber, construction timbers or cants for remanufacture that do not meet the grades referred to in paragraph (B) above and are sawn on four sides with wane less than one-fourth of any face, not exceeding eight and three-fourths inches in thickness;

D. Chips, pulp or pulp products;

E. Veneer or plywood;

F. Pulls, posts, or piling cut or treated with preservatives for use as such;

G. Shanks or shingles;

H. Aspen or other pulp wood bolts, not exceeding one hundred inches in length, exporting and processing into pulp;

I. Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants or other domestic operations for the purpose of conversion of the logs into chips;

J. Firewood cut into pieces forty-eight inches or less in length. (Ord. 699 (part), 2000)

17.168.020 Exemptions. The following are exempt from prohibition against exporting:

A. Western red cedar that is domestically processed into finished products to be sold into domestic or international markets;

B. Specific quantities of grades and species of unprocessed timber originating from public lands which the United States Secretary of Agriculture or Secretary of the Interior as determined by rule to be surplus to the needs of timber manufacturing facilities in the United States. (Ord. 699 (part), 2000)

17.168.030 Bids. Anyone submitting a bid of purchase of public timber must provide written certification of the following:

A. The person will not export unprocessed timber, either directly or indirectly;

B. The person will not sell, transfer, exchange or otherwise convey unprocessed public timber to any other person without obtaining a certification from the person of the person's intent to comply with Oregon laws prohibiting export of unprocessed timber from public lands;

C. Unless exempted by these rules, the person has not exported unprocessed timber from private lands in Oregon from a period of at least twenty-four months prior to the date of submission of the bid. (Ord. 699 (part), 2000)

17.168.040 Hearings process. A. If the city finds a violation of these rules at least five days before such a finding, it is to be made to the city council, the city manager shall provide the alleged violator with notice of the violation and an opportunity for a hearing. Notice shall be sufficient if it is mailed to the last known address to the alleged violator.

B. After the hearing, if the city council finds that such a violation has occurred, it must declare findings of any violation on the record.

C. If the city imposes a penalty, it shall serve notice in writing, in person or by registered mail or certified mail upon the person committing the violation, notifying him or her of the penalty to be imposed.

D. The person incurring the penalty shall have twenty days from the date receiving the notice to make written application for a hearing.

E. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413-183.470.

F. Judicial review of an order made after a hearing under this section shall be with the court of appeals, as provided in ORS 183.480-183.497 for judicial review of contested cases. (Ord. 699 (part), 2000)

17.168.050 Penalties. A. The city may bar any person who violates these rules from entering into any contract for the purchase of unprocessed timber from public lands for a period of up to five years.

B. Such person also may be precluded from taking delivery of public timber purchased by another party for the period of debarment.

C. The city may cancel any contract entered into with a person found to have violated these rules or related Oregon laws.

D. In addition, after findings on the record and an opportunity for a hearing, the city may:

1. Assess a civil penalty of up to seventy-five thousand dollars for each violation, if it finds that the violation was casual or involuntary;

2. Assess a civil penalty of up to five hundred thousand dollars or three times the gross value of the unprocessed timber involved in the violation, whichever is greater, if it finds a willful violation. Willful violation is a Class C felony. (Ord. 699 (part), 2000)

17.168.060 Enforcement. A. When an order assessing a civil penalty becomes final, the amount shall be payable within ten days after the order becomes final.

B. If the order is not paid within ten days, it may be recorded with the county clerk within any Oregon county.

C. All monies received must be paid into the state forestry department account and may be used only to pay the expenses of administration, investigation, and enforcement of ORS 526.801-526.831 by the state forester or any law enforcement agency. (Ord. 699 (part), 2000)