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## Brookings Land Development Code

The Brookings Land Development Code regulates development within the City of Brookings

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**LAND DEVELOPMENT CODE**  
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Section 1  
GENERAL PROVISIONS

Sections:

- 1.010 Planning Commission established.
- 1.020 Repeal of ordinances, resolutions or motions.
- 1.030 Title.
- 1.040 Purpose.
- 1.050 Enactment and effect.
- 1.060 Compliance with title provisions.

1.010 Planning Commission established. A Planning Commission is hereby established to be constituted and have the powers and duties as set forth in ORS 227.010 to 227.120, which is adopted by reference and made a part of this section together with all amendments which now or hereafter may be enacted thereto.

1.020 Repeal of ordinances, resolutions or motions. Ordinances No. 216, 217, 223, 228, 229, 230, 245, 273, 275, 276, 278, 282, 284, 286, 289, 295, 296, 297, 299, 304, 310, 312, 318, 331, 340, 351, 354, 355, 356, 360, 363, 364, 372, 375, 376, 382, 385, 388, 398, 400, 403, 404, 411, 417, 422, 424, 427, and any other ordinances, Resolution No. 356 and any other resolutions or motions prior to the date of the enactment hereof shall be and are hereby repealed, replaced and superseded.

1.030 Title. This document and its provisions shall be known as the "Land Development Code of the City of Brookings."

1.040 Purpose. The purpose of this code is to classify, designate and regulate the location, placement and use of buildings, structures, and land for residential, commercial, industrial or other uses in appropriate places and for said purpose to divide the City of Brookings into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement; to encourage the most appropriate use of land; to conserve and stabilize the value of property; to provide adequate open spaces for light and air and prevention of fires; to prevent undue concentrations of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities such as transportation, water, sewer, schools, parks and other public requirements; and in general to promote the health, safety and welfare of the citizens and visitors of Brookings; all of which are in accordance with and in implementation of the Comprehensive Plan of the City of Brookings.

1.050 Enactment and effect. This code is enacted and placed into effect as a result of its adoption by the City Council of Brookings this 10th day of April, 1989.

1.060 Compliance with code provisions. No buildings or other structures shall be



constructed, improved, or altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained, after the effective date of this code except in conformity with conditions prescribed for each of the several zones established hereunder. It shall be unlawful for any person, firm or corporation to erect, construct, establish, move into, alter, enlarge or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this code contrary to the provisions of this code. Where this code imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this code shall control.

This code shall apply to all actions which have not reached the following steps:

- A. Site review: Final approval by City staff or the Planning Commission.
- B. Partitioning and subdivision: Approval of preliminary (tentative) plat.
- C. Planned unit developments: Final approval by the Planning Commission.
- D. Signs: Final permit approval.
- E. Variances and conditional use permits: Approval by the Planning Commission.
- F. Zone change: Ordinance enactment.

Section 4  
DEVELOPMENT PERMIT PROCEDURES

Sections:

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- 4.030 Permit issuance.
- 4.040 Lands in violation.
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- 4.140 Notice of public hearing or public meeting.
- 4.150 Decision timelines and notice.
- 4.160 Approval or denial.
- 4.170 Action on resubmission of denied application.

4.010 Purpose. Development permits are issued to assure property owners that the use and development of land is consistent with the provisions of this code. The development permit supplements and consolidates the various land use permits required in this code, and simplifies the permit procedure.

4.020 Development permit required. Except as exempted by Section 4.070, no person shall engage in or cause the development of land for which a development permit has not been issued. Development permits shall be in a form prescribed by the city. Development permits are required for all uses, activities and developments, except those otherwise exempt, subject to the following processes and as required elsewhere in this code:

- A. All uses permitted, or conditionally permitted in all zoning districts of this code.
- B. Uses, activities and development subject to receipt of site plan approval.
- C. The following administrative and/or discretionary approval processes:
  - 1. Home occupation.
  - 2. Dwelling groups.
  - 3. Rear lot development.
  - 4. Planned unit development.

5. Nonconforming uses.
6. Variances.
7. Conditional use permits.
8. Amendments.
9. Vacations.
10. All uses subject to the provisions applying to special uses, Section 124.
11. Minor, major partitions and subdivisions.

4.030 Permit issuance. Development permits shall be issued by the City Manager or his designee according to the provisions of this code. Neither the City Building Official nor any other state or local official shall issue a permit for use, development or occupation of a structure which has not been approved according to this code. Notwithstanding the above, valid prior approvals shall be allowed to proceed as provided in Section 1.060, Compliance with code provisions.

4.040 Lands in violation. The City Manager or his designee shall not issue a development permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this code subsequent to its adoption, or otherwise developed in violation of this code, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this code.

4.050 Final decision. A decision on a development permit shall be final upon expiration of the period for filing an appeal as provided in this code, unless appealed. If appealed, a decision on a development permit shall be final upon rendering of a final decision by the appeal review body.

- A. The expiration date or phasing schedule for the development permit shall be shown on the development permit. Except as otherwise provided in this code, all development permits shall have a 24 month expiration date.
- B. A development permit shall expire upon the expiration date shown on the permit unless the filing of the land partition or subdivision has been completed, or construction of the development has begun and diligently pursued toward completion, or operation of the use has begun, as appropriate, unless an extension has been granted by the review body as provided in this code.

4.060 Building permit as development permit.

- A. The developments and activities listed below may utilize the building permit as the development permit, provided that the provisions of this code are met:
1. Detached single family dwellings and duplex dwellings on pre-existing lots, which lots conform to the requirements of this code.
  2. Accessory buildings.
  3. A change internal to a building or other structure that does not result in a change of use from those uses permitted in the zone.
- B. The building permit form shall contain a line for the signature of the City Manager or his designee indicating compliance with the provisions of this code. Although fees may be established for review for code compliance of the developments and activities listed in Subsection A., above, such fees shall be less than the fees established for other development permit review.

4.070 Exemptions from development permit requirements. The developments and activities listed below are exempt from the requirements for a development permit, but are nevertheless subject to the provisions of this code:

- A. Landscaping and maintenance or other treatment or use of the land not involving a structure, except grading and filling in a flood plain area and improvement of parking areas.
- B. Excavation or filling of land involving 50 cubic yards or less, except when used as backfill or excavation for foundations, and except grading and filling in a flood plain.
- C. An emergency measure necessary for the safety or protection of property when authorized by the City Manager.
- D. Remodel, addition, alteration or repair of an existing single family residence for residential use.
- E. Remodel, alteration or repair within any twelve month period, not in excess of 50% of the assessed value or market value, whichever is greater, or the addition of no more than 25% of the floor area, in any 12-month period, provided that no addition may be made under this subsection where the addition and previous additions will result in total additions of floor area in excess of 50% of the floor area of a building as existed on the date of enactment of this subsection (August 11, 1992) or on the date of initial occupancy of a building, whichever is later, excepting those in subsection D above, not to be construed as excepting from development permit requirements where development includes expansion of use for commercial or industrial activities nor increases of densities for residential. [Section 4.070, Subsection E as amended by Ordinance No. 90-O-446.K, effective August 11, 1992.]

- F. All structures damaged or destroyed by fire or Acts of God provided there is no increase in original floor area, unless otherwise required by law, or in density, nor expansion of use of the original structure is involved. [Section 4.070, Subsection E as added by Ordinance No. 90-O-446.A, effective March 28, 1990

4.080 Pre-application conference.

- A. An applicant or the applicant's authorized representative shall request the City Manager or his designee to arrange a pre-application conference, unless the applicant and director agree that the conference is not needed. Such pre-application conference will be conducted by, and pursuant to the site plan committee and site plan approval process.
- B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code; to provide for an exchange of information regarding applicable elements of the Comprehensive Plan and Development Code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.
- C. Any multiple family project involving more than four (4) dwelling units, or subdivision and major partition, or PUD or dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the pre-application conference.
- D. Upon the request of the applicant, the City Manager or his designee shall provide the applicant with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.

4.090 Application materials. A complete application for a development permit shall consist of items required by this code, in addition to the following:

- A. A completed application, on a form provided by the city.
- B. Legal description, assessor's parcel map number and tax lot number for all properties included in the application.
- C. Evidence that the property included in the application is owned by the applicant, or that the applicant is the duly authorized agent of the owner.
- D. Additional information, including maps, plans, sketches and calculations as required by other sections of this code.
- E. Where applicable, a statement of intent, explaining the nature and proposed use of the development, pertinent background information and other information that may have a bearing in determining the action to be taken.

F. As many duplicates of the above information as may be requested by the City Manager or his designee to facilitate expeditious review of the application.

G. Submission of application fees as established by the City.

4.100 Determining completeness of application. The City Manager or his designee shall review the application and make a determination of application completeness within five (5) working days of receiving the application. If the director determines that the application is incomplete or the necessary attachments have not been submitted, the director shall notify the applicant of the negative determination by mailing or otherwise conveying an explanation to the applicant on the next working day following determination of completeness.

4.110 Resubmittal. An application for which a negative determination has been made may be resubmitted after revision to overcome the reasons for the negative determination.

4.120 Referral. Within five (5) working days of accepting an application for a development permit, the City Manager or his designee shall:

A. Transmit one (1) copy of the application, or appropriate parts of the application to members of the site plan committee, who shall then meet pursuant to Section 80.050 of this code, to render a decision on the application.

B. Transmit the development permit application, or appropriate parts of the application, to other governmental bodies where approval of other governmental bodies is required prior to granting a development permit.

4.130 Review.

A. The City Manager or his designee shall include in the transmittals noted in Section 4.120, A., above, the date of site plan review scheduled for the application, or if no site plan review is required, some other date for submission of comment. If no comment is forthcoming by the date of site plan review, or by the other date provided if no site plan review is required, the referral agency or city department is presumed to have no comments and objections.

B. The City Manager or his designee may extend the deadline for comment by the referral agency or city department up to 10 working days, but only if the application involved unusual circumstances.

4.140 Notice of public hearing or public meeting. Within 10 working days of accepting a complete application, the City Manager or his designee shall:

- A. Set a date for a public hearing if a public hearing is required by this code; or
- B. Set a date for a noticed public meeting, if such meeting is required by this code.

4.150 Decision timelines and notice. Within 15 days of the date of accepting a permit application not involving approval from governmental bodies, or upon the effective date of approval by other governmental bodies, the City Manager or his designee shall grant or deny the development permit. Upon grant or denial, the City Manager or his designee shall notify the applicant and, if required, others entitled to notice of the disposition of the application. The notice shall indicate the date that the decision will take effect, and describe the right of appeal.[Section 4.150 as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]

4.160 Approval or denial. The decision of the City Manager or his designee shall be based upon the application, the evidence, comments from referral agencies and approvals required by other governmental bodies. The decision of the City Manager or his designee shall be final upon being rendered subject only to any appeals filed under the provisions of this code.

- A. Approval. The City Manager or his designee shall issue a development permit if applicable approvals by other governmental bodies have been granted and the proposed development otherwise conforms to the requirements of this code.
- B. Denial. The City Manager or his designee shall deny the development permit if required approvals from other governmental bodies are not obtained or the application otherwise fails to comply with code requirements. The notice shall describe the reason for denial.

4.170 Action on resubmission of denied application. An applicant may make appropriate alterations to a proposal which has been previously denied by a review body and resubmit it with payment of the required fee. Other provisions of this code may establish a minimum amount of time between the date of denial and resubmission of development proposals.

**Section 8**  
**DEFINITIONS**

**Sections:**

8.010 Definitions

**8.010 Definitions.** As used in this code, the masculine includes the feminine and the neuter, and the singular includes the plural. Where words or phrases used in this code have specialized or technical meanings, definitions are provided. The word “shall” is mandatory and not permissive. All other words or phrases shall be interpreted as they are commonly defined in everyday usage.

**“Abutting”** Having a common boundary line, except where two (2) or more lots or parcels adjoin only at a corner or corners, or where the common property line between the lots or parcels measures less than eight (8) feet in a single direction.

**“Access or access way”** The place, means or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this code.

**“Accessory structure or use”** A use or structure incidental and subordinate to the main use of the property, and which is located on the same lot with the main one.

**“Addition”** The addition to the physical area of an existing building or structure on a lot or parcel of land requiring a Building Permit. **[As added by Ordinance No. 91-O-446.F, effective September 10, 1991.]**

**“Adjacent”** To be near, close; for example, a commercial district across the street or highway from a residential district shall be considered as “adjacent”.

**“Adjoining”** The same as “abutting”.

**“Agriculture structures”** Structures intended primarily or exclusively for support of agricultural functions and exemplified by, but not restricted to: barns, silos, water towers, windmills, greenhouses, stables.



**“Agriculture”** The use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, silvaculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of the normal agricultural activities and provided further that the above uses shall not include the operation of a feed lot or other commercial feeding of animals

**“Alley”** A public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

**“Alteration”** Any structural change to a building or other structure, which requires a Building Permit. [As added by Ordinance No. 91-O-446.F, effective September 10, 1991.]

**“Altered”** To mean structurally altered.

**“Amendment”** A change in the wording, context or substance of this code or the comprehensive plan document, or a change in the zone boundaries or area district boundaries upon the zoning map or designations upon the Comprehensive Plan map.

**“Animal hospital”** Shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

**“Apartment”** A dwelling unit in a multiple-family building.

**“Architectural projections/features”** Decorative extensions or other portions of a building having no floor space nor key structural value.

**“Assessor”** Shall mean the county assessor of Curry County.

**“Basement”** A space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling below the average adjoining finished grade; if the finished floor level directly above a basement is more than six (6) feet above finished grade at any point, such space shall be considered a story.

**“Bed and Breakfast”** Any activity located in an owner occupied single family residence involving the rental of two (2) or more rooms where one breakfast meal is served during the A.M. hours only. [As added by Ordinance No. 91-O-446.F, effective September 10, 1991.]

**“Boarding or rooming house”** A dwelling or part thereof, other than a hotel or motel, where lodging with or without meals is provided, with compensation, for three (3) or more persons.

**“Building”** Any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

**“Building, height of”** The average of the vertical distance measured from the highest peak of the roof to the finished grade at the center of all four sides of the building. [Amended by Ordinance No. 03-O-446.SS, effective January 21, 2004].

**“Building main”** A building within which is conducted the principal use permitted on the lot or parcel, as provided in this code.

**“City”** The City of Brookings, Oregon, as represented by the City Manager or his designated representative.

**“City Engineer”** The city engineer of the City of Brookings, Oregon.

**“City Manager”** The city manager of the City of Brookings, Oregon.

**“Clinic”** Place for group medical services not involving overnight housing of patients.

**“Club”** An association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried as a business for profit.

**“Code”** the City of Brookings Land Development Code.

**“Commission or Planning Commission”** The planning commission of the City of Brookings, Oregon.

**“Comprehensive Plan”** The comprehensive plan of the City of Brookings, Oregon.

**“Condominiums”** A type of residential, commercial or industrial development offering individual ownership of units and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through ORS 94.480).

**“Construct”** To build, form, or devise by fitting parts together systematically. For the purposes of this code the word construct shall also include the preparation of a site for building by the clearing of brush and grading of land for roads, driveways, utilities and foundations. **[As added by Ordinance No. 94-O-446.V, effective August 9, 1994]**

**“Contiguous”** The same as “abutting”.

**“Council, City or common council”** The city council of the City of Brookings, Oregon.

**“Court”** An open, unoccupied space of one (1) lot or parcel on which a group of dwelling units face or front.

**“Cul-de-sac”** A short street which has one end open to traffic and is terminated by a vehicular turn-around.

**“Day care, nursery or kindergarten”** A school or child care center housing fourteen (14) or more children for no more than 12 hours a day, with or without compensation, including for board, supervision, and/or training given at premises other than the normal residence of the child.

**“Density, gross”** The quotient of the total number of dwelling units divided by the gross site area.

**“Development permit”** A permit issued for a development which is in compliance with this code and the Comprehensive Plan.

**“Director of planning or planning director”** The director of planning of the City of Brookings, Oregon.

**“District”** A zoning district.

(a) An “R” district indicates any residential district.

(b) A “C” district indicates any commercial district.

(c) An “M” district indicates any industrial district.

**“Drainage way”** A natural or man-made watercourse which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation and which conveys significant concentrations of water over the surface of the land.

**“Dwelling group”** The integrated site design of a group of two (2) or more dwelling units located on a parcel of land in one ownership and having any yard or court in common.

**“Dwelling, single-family”** A building designed or used for residential purposes by not more than one (1) family and containing one (1) dwelling unit only.

**“Dwelling, two-family or duplex”** A building designed or used for residential purposes by not more than two (2) families and containing two (2) dwelling units.

**“Dwelling, multi-family”** A building or portion thereof designed or used as a residence by three (3) or more families and containing three (3) or more dwelling units.

**“Dwelling unit”** One (1) room, or suite of two (2) or more rooms, designated or used by one (1) family or housekeeping unit for living or sleeping purposes and having not more than one (1) kitchen or kitchenette.

**“Easement”** A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

**“Expansion of use”** To increase the physical area for, or the intensity of, the existing use and/or placing an additional use on a lot or parcel of land. **[As added by Ordinance No. 91-O-446.F, effective September 10, 1991.]**

**“Family”** An individual; or two (2) or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five (5) unrelated persons living together in a dwelling unit.

**“Fence, sight-obscuring”** A fence, wall or evergreen planting arranged in such a way as to obstruct vision.

**“Findings”** Written statements of fact, conclusions and determinations based on evidence presented in relation to the decision approval criteria and accepted by the review body in support of a decision.

**“Flag lot”** A “panhandle” shaped lot or parcel with its widest area set back some distance from a road and having a thin strip of land connecting to a road to provide legal access.

**“Floodplain”** The land within the city subject to a one percent chance of flooding in any given year.

**“Floodway”** That portion of a floodplain and river channel that is necessary to conduct the waters of the base flood without cumulatively raising the water level more than one (1) foot.

**“Floor area”** The area included in the surrounding walls of a building, or portion thereof, exclusive of vent shafts and courts.

**“Frontage”** That portion of a parcel of property which abuts a dedicated public street or highway.

**“Garage or carport”** A permanently constructed building with covered roof available for the parking of a motor vehicle.

**“Grade (ground level)”** The average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

**“Group living”** Shall mean more than five (5) persons unrelated by blood or marriage residing together in a dwelling unit.

**“Guest house”** An accessory building, designed, constructed, and used for the purpose of providing temporary living accommodations for guests or for members of the same family as that occupying the main structure, and containing no kitchen or kitchen facilities.

**“Home occupation”** A lawful occupation carried on within a dwelling or in an attached accessory building to a dwelling by members of the family occupying the dwelling, and which complies with the conditions of Section 104, provided that the residential character of the building is maintained and the occupation constructed in such a manner as not to manifest any characteristic of a business in the ordinary meaning of the term, except as permitted in this code, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A home occupation does not involve the retail sale of a product or commodity on the premises, other than teaching, tutoring, or counseling, or other similar professional business service involving a traffic impact of no more than one (1) automobile at a time, nor more than eight (8) persons a day.

**“Hotel”** Any building or portion thereof designed or used, or containing six (6) or more guest rooms or suites of rooms, but not including any institutions in which human beings are housed or detained under legal restraint.

**“Kennel”** Any premises where four (4) or more dogs, cats or other small animals are permitted to remain, for a fee, except veterinary clinics and animal hospitals.

**“Land divisions”**

(a) **“Major partition”** - A partition of land creating three or less parcels from a parent parcel which includes the creation of a road or street.

(b) **“Minor partition”** - A partition of land creating three or less parcels from a parent parcel.

(c) **“Subdivision”** - A division of land creating four or more lots from a parent parcel.

(d) **“Lot line adjustment”** - Adjustment of an existing lot line by the relocation of a common boundary, where an additional parcel reduced in size by the adjustment is not reduced below the minimum lot size established by this code.

(e) **“Parent parcel”** - That parcel of land as it existed on the effective date of this code. Contiguous parcels of land partitioned prior to the effective date of this code, and remaining in single ownership, shall all be considered part of one parent parcel.

**“Livestock”** Any domestic farm animal kept for sale, use or as a pet but not including dogs, cats or poultry. [As added by Ordinance No. 98-O-446.DD, effective September 9, 1998]

**“Lot”** A parcel of land used or capable of being used under the regulations of this code, lawfully created as such in accordance with the land division laws or ordinances in effect at the time of its creation.

**“Lot area”** The total horizontal area within the lot lines of a lot.

**“Lot, corner”** A lot abutting on two (2) or more intersecting streets other than an alley, except if the streets intersect at an angle greater than 135 degrees.

**“Lot coverage”** That percentage of the total lot area covered by structures.

**“Lot depth”** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

**“Lot, interior”** A lot other than a corner lot.

**“Lot line”** The property line bounding a lot.

**“Lot line, front”** In the case of an interior lot, the lot lines separating the lot from the street other than an alley. In the case of a corner lot, the shortest lot line along a street other than an alley.

**“Lot line, rear”** A lot line not abutting a street which is opposite and most distant from the front lot line. In a case of an irregular shaped lot, a line a minimum of ten (10) feet in width within the lot parallel to and at a maximum distance from the front lot line.

**“Lot line, side”** Any lot line not a front lot line or a rear lot line.

**“Lot of record”** A lot or parcel held in separate ownership as shown on the records of the county assessor at the time of passage of this code or regulation establishing the zoning district in which the lot is located.

**“Lot, tax”** One parcel of real property shown on the Curry County Assessor's Parcel Map which is identified by a tax lot number and which may not necessarily be a lot of record.

**“Lot, through”** An interior lot having frontage on two (2) parallel or approximately parallel streets other than alleys. Such a lot shall have one front yard fronting on the primary public street.

**“Lot, width”** The horizontal distance between the side lot lines measured at their midpoint between the front and rear lot lines or the distance between the side lot lines within the buildable area (area of the lot less required setbacks). In the case of a corner lot, lot width shall mean the horizontal distance between the longest front lot line and the opposite lot line not abutting the street.

**“Maintain”** To cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable and carries out the purpose for which it was installed, constructed or required.

**“Manufactured home”** A transportable single-family dwelling conforming to the Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD code), but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations, 1985 edition, and intended for permanent occupancy and which arrives at the site complete and ready for occupancy so that it may be used with or without a permanent foundation.

**“Minor Change”** A change to the design and/or conditions of approval of a Planned Unit Development, Conditional Use Permit or Subdivision that does not significantly change the nature of the project or subdivision. Minor changes may be allowed to the conditions of approval and the design of a completed project including the addition or reduction of buildings, totaling no more than 20% of the total floor area originally approved for the project. Minor changes to Subdivisions and footprints of Planned Unit Developments which require recordation with the County Clerk are only allowed prior to time of recordation. **[As added by Ordinance No. 92-O-446.J, effective April 7, 1992]**



**“Mobile home park”** A defined area under united ownership or control in which manufactured homes are situated and used for human habitation, or in which spaces are improved, designed or offered for such purposes.

**“Mobile home space”** A plot of ground within a mobile home park designed for the accommodation of one manufactured home.

**“Mobile home - subdivisions”** Shall consist of a minimum area of five (5) acres and be designed and constructed to the same standards and requirements as subdivisions for conventional homes complying with the Oregon State Structural Specialty Code and Fire Life Safety Regulations, 1985 Edition, in addition to the requirements set forth in Section 32. A mobile home subdivision is designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes, (but not limited thereto).

**“Motel”** A building or group of buildings used for transient residential purposes containing guest rooms or dwelling units with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of transient automobile travelers; including groups designated as auto cabins, motor courts, motor hotels and similar designations.

**“Nonconforming structure or use”** A use of land or of a building or structure which use lawfully existed at the time of the adoption of this code, or of any amendment thereto, but which use does not conform with the use regulations imposed by this code or such amendment thereto.

**“Parcel”** A unit of land that is created by a partitioning of land.

**“Parking area, public”** An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.

**“Parking space”** A permanently surfaced and marked area not less than nine (9) feet wide and 20 feet long excluding paved area necessary for access, for the parking of a motor vehicle.

**“Permittee”** The person who is proposing to use or who is using the land pursuant to any permit required herein.

**“Person”** An individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, the federal or state government, town, county, district or any other group or combination acting as an entity.

**“Plat”** The map or drawing on which the subdividers plan of subdivision is presented and which is submitted for approval and is intended to be recorded in its approved final form.

**“Private street/road”** A street or road created through any process requiring a Development Permit and constructed to the standards of the Land Development Code with a recorded agreement that such road will be maintained by the property owner(s) which it will serve. [As added by Ordinance No. 91-O-446.F, effective September 10, 1991.]

**“Recreation vehicle or travel trailer”** A self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

**“Recreation vehicle park”** A lot upon which two (2) or more recreation vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations.

**“Rehabilitation Facility”** [Definition deleted by Ordinance No. 95-O-446.Y, effective May 9, 1995]

**“Rent”** The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel or short-term rental as defined below, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy. [Definition added by Ordinance No. 01-O-446.MM, effective January 17, 2002)

**“School, private and parochial”** Schools for children over the age of five (5) years having a curriculum substantially equivalent to a public school.

**“School, public”** An institution of learning which offers instruction in the several branches of learning and study required to be taught in public schools. It

does not include business colleges, nursery schools, dancing schools, riding academies, or specialized trade or vocational schools.

**“Setback”** The minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest vertical wall or other element of a building or structure as defined herein.

**“Shopping center”** A group of stores planned and designed for the site on which it is built, functioning as an integrated unit, with off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

**“Short Term Rental”** A residential structure, either single family, duplex, apartment or condominium, that is rented for lodging or sleeping purposes for a period of less than thirty (30) days. **[Definition added by Ordinance No. 01-O-446.MM, effective January 17, 2002)**

**“Sign”** Any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising the property or the establishment or enterprise, including goods and services, upon which the sign is exhibited. This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by law or by federal, state, county or city authority.

**“Sign, area of”** In determining whether a sign is within the area limitations of this code, the area of the total exterior surface shall be measured and computed in square feet; provided, that where the sign has two (2) or more faces, the area of the total exterior surface shall be measured and divided by the number of faces; and provided further, that if the interior angle between the two planes of two faces exceeds 135 degrees they shall be deemed a single face for the purposes hereof. Measurement shall be made at the extreme horizontal and vertical limit of a sign.

**“Site plan”** A plan, prepared to scale, showing accurate and complete dimensioning of all of the uses and improvements proposed for a specific parcel of land.

**“Site plan committee”** The site plan committee of the City of Brookings, Oregon.

**“Story”** 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 top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above.

**“Street”** A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, lane, drive, boulevard, highway, road and any other thoroughfare.

**“Street, arterial”** A major street intended to transport large quantities of traffic in a safe and efficient manner with a minimal number of controlled access points. It shall be identified as an arterial street on the City of Brookings official street masterplan.

**“Street, collector”** A major street which transports traffic from local streets and neighborhoods to the arterial street system and is identified as such on the City of Brookings official street masterplan.

**“Structure”** Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts adjoining in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

**“Structural alteration”** Any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters roof diaphragms, foundations, piles or retaining walls or similar components.

**“Temporary use”** A short-term, seasonal or intermittent use, which shall be approved by the Planning Commission by means of the conditional use permit process with such conditions as the commission deems reasonable in accordance with the conditional use permit standards.

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

**“Vision obstruction”** As defined in Section 132.050.

**“Water-dependent (WD)”** A use or activity which can be carried out only on, in or adjacent to water areas because the use required access to the water body for water-borne transportation, recreation, energy production or source of water.

Therefore, in WD areas such activity as the following is allowed:

(a) Service areas for support of water-borne transportation (such as fueling, moorage, unloading, terminal or transfer facilities, marine construction, dismantle or repair).

(b) Access to fishing, swimming, boating, fishing (water an integral part of the activity).

(c) Production of energy from water.

**“Water-related (WR)”** Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as providing services directly to water-dependent or water-related facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, mobile home parks and recreational vehicle parks are not generally considered dependent on or related to water locations needs.

WR uses are those which provide services to WD uses, services directly associated with WD uses or directly tied to function of WD use. The rule is that an activity is WR if an upland location would mean a net loss to the public in quality of goods or service (economic, social, environmental)

**“Wholesale”** The business of selling goods or merchandise to retailers or jobbers for resale to the ultimate consumer.

**“Wrecking yard”** An area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers, or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts, or the storage of vehicles unable to be moved under the power of the vehicle.

**“Yard”** Any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed by any structure from the ground upward to the sky, except from architectural projections.

**“Yard, front”** An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

**“Yard, side”** An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

SECTION 12  
ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

Sections:

- 12.010 Classification of zoning districts.
- 12.020 Application of regulations to districts.
- 12.030 Zoning map.
- 12.040 Interpretation of district boundaries.

12.010 Classification of zoning districts. For the purposes of this code, the City of Brookings is divided into zoning districts designated as follows:

<u>Zoning Districts</u>	<u>Map Symbol and Abbreviated</u>	<u>Designation</u>
Suburban Residential		SR
Single-Family Residential		R-1
Two-Family Residential		R-2
Multiple-Family Residential		R-3
Mobile Home Residential		R-MH
Professional Office		PO-1
Public Open Space		P/OS
Neighborhood Commercial		C-1
Shopping Center Commercial		C-2
General Commercial		C-3
Tourist Commercial		C-4
Industrial Park		I-P
General Industrial		M-2
Marine Activities		MA
Airport Approach Overlay		AA

Section 12.010 as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]

12.020 Application of regulations to districts generally.

- A. No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building, land or premises is located.
- B. No building or part thereof or structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.
- C. No building or part thereof or structure shall be erected, nor shall any existing building be altered, enlarged or rebuilt or moved into any district,

nor shall any open space be encroached upon or reduced in any manner, except in conformity with the yard, setback, building location, site area and coverage requirements hereinafter prescribed with the district in which such building or open space is located.

- D. No yard or other open space provided about any building or on any building lot for the purpose of complying with the provisions of this code shall be considered as providing a yard or other open space for any other building or any other building lot.

#### 12.030 Zoning Map.

- A. The location and the boundaries of the districts designated in Section 12.010 of this code are hereby established as shown on the map entitled "Zoning Map of the City of Brookings", dated with the effective date of the ordinance, signed by the City Recorder and Mayor and hereafter referred to as the "Zoning Map".
- B. The signed copy of this map shall be maintained on file in the City Recorder's office and is hereby made a part of this code. Any revisions or replacements of said map, when duly entered, signed and filed with the City Recorder as authorized by subsection A of Sections 12.030 are a part of this code.
- C. Each copy of this title shall contain a copy of the zoning map. However, the signed map in the City Recorder's office shall be the "Official Map" of the City of Brookings zoning districts.
- D. When the zoning of any area is changed by the City Council in the manner prescribed by this code, the official zoning map shall be so revised that it accurately portrays said change, and the number of the ordinance by which the change of zone was effected shall be endorsed on the map; provided, that failure to so revise the said map shall not affect the validity of any zone change. The Council may, from time to time, direct the administrative staff to replace the official zoning map, or a portion thereof, with a map, or portion thereof, which includes all lawful changes of zone and city boundaries to date. Such map, or portion thereof, filed as a replacement, shall bear the number of the ordinance authorizing the same and shall bear dated, authenticating signatures of the Mayor and City Recorder. Any map or portion thereof thereby replaced shall be retained in a separate file by the City Recorder.

#### 12.040 Interpretation of district boundaries. In making a determination where uncertainty exists as to boundaries of any of the aforesaid districts as shown on said zoning map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the centerline or right-of-way line of streets, alleys or highways, such lines shall be construed to be such district boundaries.



- B. Whenever any street, alley or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the centerline of the former right-of-way and all of the area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
- C. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. If a district boundary divides a lot into two (2) or more districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided that the boundary adjustment is for a distance of less than 20 feet. If an adjustment of more than 20 feet is required, the change in the district boundary shall be treated as an amendment.

SECTION 16  
SUBURBAN RESIDENTIAL (SR) DISTRICT

Sections:

- 16.010 Purpose.
- 16.020 Permitted uses.
- 16.030 Accessory uses.
- 16.040 Conditional uses.
- 16.050 Minimum lot area.
- 16.060 Lot width and yard minimum requirements.
- 16.070 Maximum building height.
- 16.080 Maximum lot coverage.
- 16.090 Signs.
- 16.100 Parking.
- 16.110 Manufactured housing requirements.
- 16.120 Dwelling groups.
- 16.130 Other required conditions.

16.010 Purpose. The purpose of the SR district is to stabilize and protect the suburban residential qualities of areas which, because of topography, level of service or other natural or developmental factors are best suited to large lot sizes.

16.020 Permitted uses. The following uses are permitted:

- A. Single-family dwellings.
- B. Rear lot development in accordance with Section 112.
- C. Subject to the requirements of Section 16.110, a manufactured home as defined by ORS 446.003, provided, however, nothing in this subsection abrogates a recorded restrictive covenant which may prohibit the placement of a manufactured home on a given lot. The city has no obligation to identify, investigate or enforce any such restrictive covenant. [Section 16.020.C as amended by Ordinance No. 94-O-446.T, effective May 10, 1994]

16.030 Accessory uses. The following accessory uses are permitted:

- A. Living quarters for persons regularly employed in the premises; but not including labor camps and labor dwellings, accommodations or areas for transient labor.
- B. Guest houses, not rented or otherwise conducted as a business.
- C. Offices incidental and necessary to the conduct of a permitted use.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

16.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit:

- A. Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.
- B. Churches, subject to Section 124.100.
- C. Hospitals, rest, nursing and convalescent homes, subject to Section 124.100.
- D. Public, private and parochial schools, including nursery schools, kindergarten and day nurseries, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.
- E. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- F. Riding instructions and academies, subject to Section 124.070.
- G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090. [As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]
- H. Cemeteries and such used within cemeteries as mortuaries, crematories, mausoleums, and columbariums provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district. All of these uses are subject to Section 124.090. [As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]
- I. Excavation and removal of sand, gravel, stone, soil or other earth products, subject to Section 124.020 (commercial excavations).
- J. Public and quasi-public halls, lodges and clubs, occupying an area of not less than five (5) acres developed to park-like recreational purposes of such nature as to enhance family living in the vicinity; and subject to Section 124.120.
- K. The keeping of horses, cattle and sheep and other livestock provided that no animals shall be kept on a lot less than three (3) acres in area, nor more than two (2) head may be kept on the first three (3) acres; however one (1) additional animal may be kept for each acre over three (3) acres, and all animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property; and barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]

- L. Planned unit developments subject to provisions of Section 116.
- M. Dwelling groups in accordance with Section 16.120. (As amended by Ordinance No. 95-O-446.X, effective February 21, 1995.)
- N. Utility substations or pumping stations with no equipment storage.
- O. Bed and breakfast facilities, subject to the provisions of Section 124.140.
- P. Signs appurtenant to any conditional use and which do not comply with Section 16.090.
- Q. Agriculture.
- R. Short-term rentals pursuant to the provisions of Section 124.70. [As added by Ordinance No. 01-O-446.MM, effective January 17, 2002.]

16.050 Minimum lot area.

- A. Minimum lot area in the SR zone may be 20,000 or 40,000 square feet, depending on the topographic nature, service availability, surrounding land uses and other relevant characteristics of the area.

16.060 Lot width and yard requirements.

<u>Zone</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
SR 20,000	80'	20'	10'	20'
SR 40,000	100'	20'	10'	20'

16.070 Maximum building height. No structure shall be over 30 feet in height, except as provided in Section 132.030. This does not apply to agricultural buildings. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]

16.080 Maximum lot coverage. Maximum lot coverage by buildings and structures shall not exceed 35 percent of the total lot area.

16.090 Signs. Signs shall be permitted in accordance with Section 88.

16.100 Parking. Off-street parking shall be provided in accordance with Section 92.

16.110 Manufactured housing requirements.

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

- B. The manufactured home shall be placed on an excavated and back-filled foundation and shall be enclosed at the perimeter such that the manufactured home is located so that no more than 12 inches of the enclosing material is exposed above grade. Where the manufactured home is placed upon a building site having a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve inch limitation will not apply.
- C. The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- D. The manufactured home shall have exterior siding and roofing which in color, material and appearance similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 445.010.
- F. The manufactured home shall have a garage or carport constructed of like materials.

[Section 16.110 as added by Ordinance No. 94-O-446.T, effective May 10, 1994]

**16.120** Dwelling groups. Dwelling groups shall be allowed on lots that can not otherwise be divided and are less than 4 acres in size, subject to the following standards.

- A. Density. The number of dwelling units allowed shall be established by dividing the total lot area by the minimum lot area of the underlying zone.
  - 1. All residential buildings shall be single family.
  - 2. Buildings may be clustered on the lot.
- B. Setbacks. The distance between any principal buildings and the property line shall be not less than established in Section 16.060. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however,

that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

C. Access. Every building containing a dwelling in the group shall be within 60 feet of an access roadway having a curb to curb section of at least 20 feet in width providing vehicular access from a public street. [As amended by Ordinance No. 89-O-454]

D. Neighborhood character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.

E. All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Section 80.

[ Section 16.120 as added by Ordinance No. 95-O-446.X, effective February 21, 1995]

16.130 Other required conditions.

A. Site plan approval required as provided in Section 80.

B. No residential structure shall be located within the ocean coastal shorelands boundary nor the Chetco Estuary shorelands boundary as defined in the Comprehensive Plan.

**Section 20**  
**SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT**

**Sections:**

- 20.010 Purpose.
- 20.020 Permitted uses.
- 20.030 Accessory uses.
- 20.040 Conditional uses.
- 20.050 Minimum lot area.
- 20.060 Lot width, lot coverage and yard requirements.
- 20.070 Maximum building height.
- 20.080 Signs.
- 20.090 Parking.
- 20.100 Manufactured housing requirements.
- 20.110 Dwelling groups.
- 20.120 Other required conditions.

**20.010 Purpose.** To promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the district. The R-1 district is intended to provide for single-family residential homes at urban standards.

**20.020 Permitted uses.** The following uses are permitted:

**A.** Single-family dwellings.

**B.** Rear lot development in accordance with Section 112.

**C.** Subject to the requirements of Section 20.100, a manufactured home as defined by ORS 446.003, provided, however, nothing in this subsection abrogates a recorded restrictive covenant which may prohibit the placement of a manufactured home on a given lot. The city has no obligation to identify, investigate or enforce any such restrictive covenant. [Section 20.020.C as added by Ordinance No. 94-O-446.T, effective May 10, 1994]

**20.030** **Accessory uses.** The following uses are permitted:

- A. Rooming and boarding of not more than two (2) persons.
- B. Guest houses, not rented or otherwise conducted as a business.
- C. Home occupations, subject to the provisions of Section 104.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

**20.040** **Conditional uses.** The following conditional uses may be permitted subject to a conditional use permit:

- A. Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.
- B. Churches, subject to Section 124.100.
- C. Hospitals, rest, nursing and convalescent homes, subject to Section 124.100.
- D. Public, private and parochial schools, including nursery schools, kindergarten and day nurseries, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.
- E. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- F. Riding instructions and academies, subject to Section 124.070.
- G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090.G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**



- H.** Cemeteries and such used within cemeteries as mortuaries, crematories, mausoleums, and columbariums provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district. All of these uses are subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**
- I.** Excavation and removal of sand, gravel, stone, soil or other earth products, subject to Section 124.020 (commercial excavations).
- J.** Public and quasi-public halls, lodges and clubs, occupying an area of not less than five (5) acres developed to park-like recreational purposes of such nature as to enhance family living in the vicinity, subject to Section 124.120.
- K.** The keeping of horses, cattle, sheep and other livestock provided that no animals shall be kept on a lot less than three (3) acres in area, nor more than two (2) head may be kept on the first three (3) acres; however, one (1) additional animal may be kept for each acre over three (3) acres, and all animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property; and barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line. **[As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]**
- L.** Planned unit developments subject to provisions of Section 116.
- M.** **Deleted by Ordinance No. 91-O-446.D, effective May 8, 1991]**
- N.** Utility substations or pumping stations with no equipment storage.
- O.** Bed and breakfast facilities, subject to the provisions of Section 124.140. **[Subsection O. as added by Ordinance No. 91-O-446.D, effective May 8, 1991]**
- P.** Dwelling groups in accordance with Section 20.110. **[Subsection P. as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]**
- Q.** Signs appurtenant to any conditional use and which do not comply with Section 20.080.

**R.** Short-term rentals pursuant to the provisions of Section 124.170. [Subsection R. as added by Ordinance No. 01-O-446.MM, effective January 17, 2002]

**20.050** **Minimum lot area.** Minimum lot areas in the R-1 zone may be 6,000, 8,000 or 12,000 square feet, depending upon site, public service and neighborhood characteristics.

**20.060** **Lot width, lot coverage and yard requirements.**

<u>Zone</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Lot Coverage</u>
R-1-6	60'	20'	5'	15'	40%
R-1-8	70'	20'	5'	15'	40%
R-1-10	80'	20'	5'	15'	40%
R-1-12	90'	20'	5'	15'	40%

provided however, that side yards abutting a street shall be a minimum of 15 feet in width; and provided that the non-street side yards shall be increased by one-half foot for each foot by which the average building height exceeds 15 feet. [As amended by Ordinance No. 90-O-446.B, effective September 11, 1990 and by Ordinance No. 03-O-446.SS, effective January 21, 2004.]

**20.070** **Maximum building height.** No structure shall be over 30 feet in height, except as provided in Section 132.030. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]

**20.080** **Signs.** Signs shall be permitted in accordance with Section 88.

**20.090** **Parking.** Off-street parking shall be provided in accordance with Section 92.

**20.100** **Manufactured housing requirements.**

**A.** The manufactured home shall be multi-sectional and inclose a space of not less that 1,000 square feet.

**B.** The manufactured home shall be placed on an excavated and back-filled foundation and shall be enclosed at the perimeter such that the manufactured home is located so that no more than 12 inches of the enclosing material is exposed above grade. Where the manufactured home is placed upon a building site having a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve inch limitation will not apply.

- C. The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- D. The manufactured home shall have exterior siding and roofing which in color, material and appearance similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 445.010.
- F. The manufactured home shall have a garage or carport constructed of like materials.

**[Section 20.100 added by Ordinance No. 91-O-446.D., effective May 8, 1991]**

**20.110 Dwelling groups.** Dwelling groups shall be allowed on lots that can not otherwise be divided and are less than 4 acres in size, subject to the following standards.

- A. Density. The number of dwelling units allowed shall be established by dividing the total lot area by the minimum lot area of the underlying zone.
  - 1. All residential buildings shall be single family.
  - 2. Buildings may be clustered on the lot.
- B. Setbacks. The distance between any principal buildings and the property line shall be not less than established in Section 20.060. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width. **[Subsection B. as amended by Ordinance No. 95-O-446.X, effective February 21, 1995)**

- C.** Access. Every building containing a dwelling in the group shall be within 60 feet of an access roadway having a curb to curb section of at least 20 feet in width providing vehicular access from a public street. **[As amended by Ordinance No. 89-O-454]**
- D.** Neighborhood character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.
- E.** All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Section 80.

**20.120 Other required conditions.**

- A.** Site plan approval required as provided in Section 80.
- B.** No residential structure shall be located within the ocean coastal shorelands boundary nor the Chetco Estuary shorelands boundary as defined in the Comprehensive Plan.

**Section 24**  
**TWO-FAMILY RESIDENTIAL (R-2) DISTRICT**

**Sections:**

- 24.010 Purpose.
- 24.020 Permitted uses.
- 24.030 Accessory uses.
- 24.040 Conditional uses.
- 24.050 Minimum lot area.
- 24.060 Lot width, lot coverage and yard requirements.
- 24.070 Maximum building height.
- 24.080 Signs.
- 24.090 Parking.
- 24.100 Manufactured Housing Requirements.
- 24.110 Dwelling groups.
- 24.120 Other required conditions.

**24.010 Purpose.** Promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of R-2 and other neighborhoods by providing suitable areas for two-family dwellings.

**24.020 Permitted uses.** The following uses are permitted:

- A. Single-family dwellings.
- B. Duplex or two-family dwellings.
- C. Rear lot development in accordance with Section 112.
- D. **[Deleted by Ordinance No. 91-O-446.D, effective May 8, 1991]**
- E. Subject to the requirements of Section 24.100, a manufactured home as defined by ORS 446.003, provided, however, nothing in this subsection abrogates a recorded restrictive covenant which may prohibit the placement of a manufactured home on a given lot. The city has no obligation to identify, investigate or enforce any such restrictive covenant. **[Section 24.020.E as added by Ordinance No. 94-O-446.T, effective May 10, 1994]**

**24.030** **Accessory uses.** The following accessory uses are permitted:

- A. Rooming and boarding of not more than two (2) persons.
- B. Guest houses, not rented or otherwise conducted as a business.
- C. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.
- D. Home occupations, subject to the provisions of Section 104.

**24.040** **Conditional uses.** The following conditional uses may be permitted subject to a conditional use permit:

- A. Triplexes or three-family dwellings, provided the lot area is a minimum of 7,500 square feet or more.
- B. Churches, subject to Section 124.100.
- C. Hospitals, rest, nursing and convalescent homes, subject to Section 124.100.
- D. Public, private and parochial schools, including nursery schools, kindergartens and day nurseries, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.
- E. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- F. Riding instructions and academies, subject to Section 124.070.
- G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090. [As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]

- H.** Cemeteries and such used within cemeteries as mortuaries, crematories, mausoleums, and columbariums provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district. All of these uses are subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**
- I.** Off-street parking lots when contiguous to a less restrictive zoning district. For development standards see Section 92.
- J.** Excavation and removal of sand, gravel, stone, soil or other earth products, subject to Section 124.020 (commercial excavation).
- K.** Public and quasi-public halls, lodges and clubs, subject to Section 124.120.
- L.** Planned unit developments subject to provisions of Section 116.
- M.** Bed and breakfast facilities, subject to the provisions of Section 124.140.
- N.** Utility substations or pumping stations with no equipment storage.
- O.** Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.
- P.** Signs appurtenant to any conditional use and which do not comply with Section 24.080.
- Q.** Dwelling groups in accordance with Section 24.110. **[Subsection Q. as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]**
- R.** Short-term rentals pursuant to the provisions of Section 124.170. **[Subsection R. as added by Ordinance No. 01-O-446.MM, effective January 17, 2002.]**

**24.050** **Minimum lot area.** The minimum lot area shall be 6,000 square feet.

**24.060** **Lot width, lot coverage and yard requirements.**

- A.** The minimum lot width shall be at least 60 feet.

- B. The minimum front yard shall be 20 feet.
- C. The minimum side yard shall be at least five (5) feet, except that the street side yard shall be a minimum of 10 feet. The non-street side yard shall be increased by one-half foot for each foot by which the average building height exceeds 15 feet. **[As amended by Ordinance No. 03-O-446.SS, effective January 21, 2004].**
- D. The minimum rear yard shall be five (5) feet. The rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.
- E. The maximum lot coverage by buildings and structures shall not exceed 45 percent of the total lot area.

**24.070** **Maximum building height.** No structure shall be over 30 feet in height, except as provided in Section 132.030. **[As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]**

**24.080** **Signs.** Signs shall be permitted in accordance with Section 88.

**24.090** **Parking.** Off-street parking shall be provided in accordance with Section 92.

**24.100** **Manufactured Housing Requirements.**

- A. The manufactured home shall be multi-sectional and inclose a space of not less that 1,000 square feet.
- B. The manufactured home shall be placed on an excavated and back-filled foundation and shall be inclosed at the perimeter such that the manufactured home is located so that no more than 12 inches of the enclosing material is exposed above grade. Where the manufactured home is placed upon a building site having a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve inch limitation will not apply.
- C. The manufactured home shall have a pitched roof, except that no standard shall require a sloped of greater than a nominal three feet in height for each 12 feet in width.



- D.** The manufactured home shall have exterior siding and roofing which in color, material and appearance similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- E.** The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 445.010.
- F.** The manufactured home shall have a garage or carport constructed of like materials.

**[Section 24.100 as added by Ordinance No. 91-O-446.E, effective August 7, 1991]**

**24.110 Dwelling groups.** Dwelling groups shall be allowed on lots that can not be divided further and are less than 4 acres in size, subject to the following standards.

- A. Density.** One dwelling unit shall be allowed for each 3,000 square feet of lot area.
1. All residential units shall be either be in single family or duplex units.
  2. Buildings may be clustered on the lot.
- B. Setbacks.** The distance between any principal buildings and the property line shall be not less than established in Section 24.060. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width. **[Subsection B. as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]**

- C. Access. Every building containing a dwelling in the group shall be within 60 feet of an access roadway having a curb to curb section of at least 20 feet in width providing vehicular access from a public street.
- D. Neighborhood character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.
- E. All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Section 80.

**[Section 24.110 added by Ordinance No. 91-O-446.D., effective May 8, 1991]**

**24.120 Other required conditions.**

- A. Site plan approval required as provided in Section 80.
- B. No residential structure shall be located within the ocean coastal shorelands boundary nor the Chetco Estuary shorelands boundary as defined in the Comprehensive Plan.

**Section 28**  
**MULTIPLE FAMILY RESIDENTIAL (R-3) DISTRICT**

**Sections:**

- 28.010 Purpose.
- 28.020 Permitted uses.
- 28.030 Accessory uses.
- 28.040 Conditional uses.
- 28.050 Minimum lot area.
- 28.060 Lot width, lot coverage and yard requirements.
- 28.070 Maximum building height.
- 28.080 Signs.
- 28.090 Parking.
- 28.100 Manufactured housing requirements.
- 28.110 Other required conditions.

**28.010 Purpose.** This district is designed to provide an environment suitable for higher density urban residential uses. The R-3 district is intended for residential uses, community services and appropriate professional business and service offices.

**28.020 Permitted uses.** The following uses are permitted:

- A.** Two-family dwellings or duplexes. [As amended by Ordinance 98-O-446.CC, effective August 13, 1998]
- B.** Multiple-family dwellings and apartment houses.
- C.** Rooming and boarding houses, and group living.
- D.** Single family dwellings, provided the building permit applicant or the applicant's spouse, parent, child or sibling, purchased the property prior to the effective date of this amendment. A single family dwelling may include a manufactured home as defined by ORS 446.003, and subject to Section 28.100 of this code, provided, however, nothing in this subsection abrogates a recorded restrictive covenant which may prohibit the placement of a manufactured home on a given lot. The city has no obligation to identify, investigate or enforce any such restrictive covenant. [As amended by Ordinance 98-O-446.CC, effective August 13, 1998]

**28.030** **Accessory uses.** The following accessory uses are permitted:

- A. Offices incidental and necessary to the conduct of a permitted use.
- B. Off-street parking lots when appurtenant to a permitted use, subject to the provisions of Section 92.
- C. Home occupations, subject to the provisions of Section 104.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

**28.040** **Conditional uses.** The following conditional uses may be permitted subject to a conditional use permit:

- A. Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.
- B. Churches, subject to Section 124.100.
- C. Off-street parking lots when contiguous to a less restrictive zoning district, subject to the provisions of Section 92.
- D. Hospitals, rest, nursing and convalescent homes, subject to Section 124.100.
- E. Public, private and parochial schools, including nursery schools, kindergartens and day nurseries, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.
- F. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**

- H.** Cemeteries and such used within cemeteries as mortuaries, crematories, mausoleums, and columbariums provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district. All of these uses are subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**
- I.** Riding instructions and academies, subject to Section 124.070.
- J.** Excavation and removal of sand, gravel, stone, soil or other earth products, subject to Section 124.020 (commercial excavation).
- K.** Public and quasi-public halls, lodges and clubs, subject to Section 124.120.
- L.** Planned unit developments, subject to provisions of Section 116.
- M.** Utility substations or pumping stations with no equipment storage.
- N.** Bed and breakfast facilities, subject to the provisions of Section 124.140.
- O.** Professional business and service offices.
- P.** Signs appurtenant to any conditional use and which do not comply with Section 28.080.
- Q.** Group living.
- R.** Short-term rentals pursuant to the provisions of Section 124.170. **[Subsection R. as added by Ordinance No. 01-O-446.MM, effective January 17, 2002]**
- 28.050** **Minimum lot area.** The minimum lot area shall be 6,000 square feet. For each additional dwelling unit, the lot area shall be increased by 1,500 square feet.
- 28.060** **Lot width, lot coverage and yard requirements.**
- A.** The minimum average lot width shall be at least 60 feet.
- B.** The minimum front yard shall be ten (10) feet.

- C. The minimum side and rear yard shall be at least five (5) feet, except that the street side yard shall be a minimum of 10 feet. The non-street side yards and rear yard shall be increased by one-half foot for each foot by which the average building height exceeds 15 feet. **[As amended by Ordinance 03-O-446.SS, effective January 21, 2004].**
- D. The maximum lot coverage by buildings and structures shall not exceed 45 percent of the total lot area.
- E. Special yards and distances between buildings shall be provided as follows:
1. The distance between any principal building and any accessory building shall be a minimum of eight (8) feet.
  2. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width.
  3. Except for single-family dwellings on one lot, the minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width. **[Subsection 3 as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]**

**28.070** **Maximum building height.** No structure shall be over 40 feet in height, except as provided in Section 132.030. **[As amended by Ordinance 98-O-446.DD, effective September 9, 1998]**

**28.080** **Signs.** Signs shall be permitted in accordance with Section 88.

**28.090** **Parking.** Off-street parking shall be provided in accordance with Section 92.

**28.100** **Manufactured housing requirements.**

- A. The manufactured home shall be multi-sectional and inclose a space of not less than 1,000 square feet.

- B.** The manufactured home shall be placed on an excavated and back-filled foundation and shall be enclosed at the perimeter such that the manufactured home is located so that no more than 12 inches of the enclosing material is exposed above grade. Where the manufactured home is placed upon a building site having a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve inch limitation will not apply.
- C.** The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- D.** The manufactured home shall have exterior siding and roofing which in color, material and appearance similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- E.** The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 445.010.
- F.** The manufactured home shall have a garage or carport constructed of like materials.

**28.110 Other required conditions.**

- A.** Site plan approval required as provided in Section 80.
- B.** No residential structure shall be located within the ocean coastal shorelands boundary nor the Chetco Estuary shorelands boundary as defined in the Comprehensive Plan.

**Section 32**  
**MOBILE HOME RESIDENTIAL (R-MH) DISTRICT**

**Sections:**

- 32.010 Purpose.
- 32.020 Permitted uses.
- 32.030 Accessory uses.
- 32.040 Conditional uses.
- 32.050 Minimum lot area.
- 32.060 Lot width, coverage and yard requirements.
- 32.070 Maximum building height.
- 32.080 Signs.
- 32.090 Parking.
- 32.100 Other required conditions.
- 32.110 Dwelling groups.

**32.010 Purpose.** The purpose of the R-MH district is to recognize and provide for residential areas where manufactured homes built to state and federal construction and safety standards may locate in a suitable environment for family living, and to protect and stabilize the residential characteristics of the district. The intent of these district regulations is to encourage provision of alternative modest income housing opportunities in certain residential areas by permitting the use of certain manufactured homes therein, and to further recognize the trend toward homes of other than conventional construction.

**32.020 Permitted uses.**

- A. Single-family dwellings.
- B. Single-family mobile, manufactured or modular unit on an individual lot, subject to Section 32.100.

**32.030 Accessory uses.** The following uses are permitted:

- A. Rooming and boarding of not more than two (2) persons.
- B. Guest houses, not rented or otherwise conducted as a business.
- C. Home occupations, subject to the provisions of Section 104.



D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

**32.040** **Conditional uses.** The following conditional uses may be permitted:

A. Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.

B. Churches, subject to Section 124.100.

C. Hospitals, rest, nursing and convalescent homes, subject to Section 124.100.

D. Public, private and parochial schools, including nursery schools, kindergarten and day nurseries, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.

E. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.

F. Riding instructions and academies, subject to Section 124.070.

G. Mortuaries and crematories in conjunction with a mortuary subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**

H. Cemeteries and such used within cemeteries as mortuaries, crematories, mausoleums, and columbariums provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district. All of these uses are subject to Section 124.090. **[As amended by Ordinance No. 93-O-446.L, effective February 9, 1993]**

I. Excavation and removal of sand, gravel, stone, soil or other earth products, subject to Section 124.020 (commercial excavations).

- J.** Public and quasi-public halls, lodges and clubs, occupying an area of not less than one (1) acre developed to park-like recreational purposes of such nature as to enhance family living in the vicinity, subject to Section 124.120.
- K.** The keeping of horses, cattle, sheep and other livestock provided that no animals shall be kept on a lot less than three (3) acres in area, nor more than two (2) head may be kept on the first three (3) acres; however, one (1) additional animal may be kept for each acre over three (3) acres, and all animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property; and barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line. **[As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]**
- L.** Planned unit developments subject to provisions of Section 116.
- M.** Dwelling groups in accordance with Section 32.110. [Subsection M. as amended by Ordinance No. 95-O-446.X, effective February 21, 1995]
- N.** Utility substations or pumping stations with no equipment storage.
- O.** Bed and breakfast facilities, subject to the provisions of Section 124.140.
- P.** Signs appurtenant to any conditional use and which do not comply with Section 32.080.
- Q.** Mobile home parks, subject to the provisions of Section 124.160.
- R.** Short-term rentals pursuant to the provisions of Section 124.170. **[Subsection R as added by Ordinance No. 01-O-446.MM, effective January 17, 2002.]**

**32.050** **Minimum lot area.** Minimum lot areas in the R-MH zone may be 6,000, 8,000 or 12,000 square feet depending upon site, public service and neighborhood characteristics.

**32.060** **Lot width, lot coverage and yard requirements.**

<u>Zone</u>	<u>Lot width</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Maximum Lot Coverage</u>
R-MH-6	60'	20'	5'	5'	40%
R-MH-8	70'	20'	5'	5'	40%
R-MH-10	80'	20'	5'	5'	40%
R-MH-12	90'	20'	5'	5'	40%

provided however, that side yards abutting a street shall be a minimum of 15 feet in width; and provided that the non-street side yards and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet. [As amended by Ordinance 03-O-446.SS, effective January 21, 2004].

**32.070** **Maximum building height.** No structure shall be over 30 feet in height, except as provided in Section 132.030. [As amended by Ordinance 98-O-446.DD, effective September 9, 1998]

**32.080** **Signs.** Signs shall be permitted in accordance with Section 88.

**32.090** **Parking.** Off-street parking shall be provided in accordance with Section 92.

**32.100** **Other required conditions.**

- A. The manufactured housing unit must conform to the Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD code), or the Oregon State Structural Specialty Code and Fire Safety Regulations, 1985 Edition.
- B. The unit shall be a double-wide and not less than 24 feet in width, similar site-built building or structure connected or joined to the unit will be permitted.
- C. The unit shall have a wood-shake or composition roof with a minimum roof slope of 3" in 12" with not less than 12" eaves.
- D. The unit shall have skirting which is commonly allowed under the Uniform Building Code (Oregon State Structural Specialty Code).

E. No residential structure shall be located within the ocean coastal shorelands boundary nor the Chetco Estuary shorelands boundary as defined in the Comprehensive Plan.

F. Site plan approval required as provided in Section 80.

**32.110 Dwelling groups.** Dwelling groups shall be allowed on lots that can not otherwise be divided and are less than 4 acres in size, subject to the following standards.

A. Density. The number of dwelling units allowed shall be established by dividing the total lot area by the minimum lot area of the underlying zone.

1. All residential buildings shall be single family.

2. Buildings may be clustered on the lot.

B. Setbacks. The distance between any principal buildings and the property line shall be not less than established in Section 32.060. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

C. Access. Every building containing a dwelling in the group shall be within 60 feet of an access roadway having a curb to curb section of at least 20 feet in width providing vehicular access from a public street. **[As amended by Ordinance No. 89-O-454]**

D. Neighborhood character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.

E. All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Section 80.

Section 36  
PROFESSIONAL OFFICE (PO-1) DISTRICT

Sections:

- 36.010 Purpose.
- 36.020 Permitted uses.
- 36.030 Accessory uses.
- 36.040 Conditional uses.
- 36.050 Minimum lot area.
- 36.060 Lot width, lot coverage and yard requirements.
- 36.070 Maximum building height.
- 36.080 Signs.
- 36.090 Parking.
- 36.100 Other required conditions.

36.010 Purpose. This district is intended to provide an environment suitable for professional and office business uses in locations to provide a transitional use area between residential areas and less restrictive districts. The uses included in this district are intended to enhance the function of this district in transitional areas and to encourage this transition in a more residential character.

36.020 Permitted uses. Professional and business office uses, such as:

- A. Architect or designer.
- B. Accountant.
- C. Attorney.
- D. Computer operator.
- E. Day care, nursery schools and kindergartens, subject to the provisions of Section 124.010.
- F. Dentist.
- G. Engineer.
- H. Insurance agent or adjustor.
- I. Investment or management counselor.
- J. Medical and dental offices, clinics and laboratories.
- K. Nursing and convalescent homes.
- L. Photographic studio, excluding retail sales of cameras, equipment, film or supplies.

- M. Physician or other practitioner of the healing arts.
- N. Real estate office.
- O. Surveyor.
- P. Title and escrow offices.
- Q. Travel agencies.
- R. Wholesale lumber broker.

36.030 Accessory uses. The following accessory uses are permitted:

- A. Offices incidental and necessary to the conduct of a permitted use.
- B. Off-street parking lots when appurtenant to a permitted use, subject to the provisions of Section 92.
- C. Home occupations, subject to the provisions of Section 104.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

36.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit:

- A. Recreation uses and facilities, including country clubs, golf courses, swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park.
- B. Churches, subject to Section 124.100.
- C. Off-street parking lots when contiguous to a less restrictive zoning district, subject to the provisions of Section 92.
- D. Hospitals, subject to Section 124.100.
- E. Public, private and parochial schools, but not including a business, dancing, trade, technical or similar school, subject to Section 124.010.
- F. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- G. Cemeteries, mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a

boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district, subject to Section 124.090.

- H. Public and quasi-public halls, lodges and clubs, subject to Section 124.120.
- I. Planned unit developments, subject to provisions of Section 116.
- J. Dwelling groups in accordance with Section 108.
- K. Utility substations or pumping stations with no equipment storage.
- L. Bed and breakfast facilities, subject to the provisions of Section 124.140.
- M. Signs appurtenant to any conditional use and which do not comply with Section 36.080.

36.050 Minimum lot area. The minimum lot area shall be 6,000 square feet.

36.060 Lot width, lot coverage and yard requirements.

- A. The minimum lot width shall be at least 60 feet.
- B. The minimum front yard shall be 10 feet.
- C. The minimum side and rear yard shall be at least five (5) feet except that the street side yard shall be a minimum of ten (10) feet. The side or rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.
- D. The maximum lot coverage by buildings and structures shall not exceed 45 percent of the total lot area.

36.070 Maximum building height. Maximum building height shall be three (3) stories or 40 feet, whichever is the lesser. For exceptions see Section 132.030.

36.080 Signs. Signs shall be permitted in accordance with Section 88.

36.090 Parking. Off-street parking shall be provided in accordance with Section 92.

36.100 Other required conditions.

- A. Site plan approval required as provided in Section 80.
- B. All businesses shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Section 36.100.B as added by Ordinance 00-O-446.JJ, effective May 4, 2000.]

Section 40  
PUBLIC OPEN SPACE (P/OS) DISTRICT

Sections:

- 40.010 Purpose.
- 40.020 Permitted uses.
- 40.030 Accessory uses.
- 40.040 Conditional uses.
- 40.050 Yard and height requirements.
- 40.060 Signs.
- 40.070 Parking.
- 40.080 Other required conditions.

40.010 Purpose. The purpose of this district is to recognize, preserve and enhance publicly owned recreation, open space, educational and cultural areas, facilities and services, to protect the natural and scenic resources, and to insure adequate provision for open spaces consistent with the policies of the city.

40.020 Permitted uses. The following uses are permitted:

- A. Government structures including offices, fire stations, police stations. (As added by Ordinance No. 99-O-446.EE, effective May 12, 1999)
- B. Publicly owned parks and/or recreation facilities, including recreational parks, swimming pools, tennis courts, playgrounds, campgrounds, and picnic areas.
- C. Community centers.
- D. Public schools.
- E. Public golf courses.
- F. Public museums, art galleries, libraries and information centers.
- G. Water dependent or water related uses only to be located within shorelands boundary.
- H. Wireless communication facilities, pursuant to Section 168 of this code, in conjunction with an existing tower operated by a public entity. [As added by Ordinance No. 99-O-446.GG, effective Oct. 27, 1999]

40.030 Accessory uses. Accessory uses and facilities incidental and customarily appurtenant to a permitted use; including renovation, rehabilitation, replacement, repair, improvement and other similar construction and/or reconstruction activities of existing or new buildings and structures.

40.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit:



- A. Utilities and services, including storage or repair yards, warehouses or similar uses totally enclosed within a building or contained within a minimum eight (8) foot high, sight-obscuring fence.
- B. Caretaker, night watchman or park host residence. [As added by Ordinance No. 93-O-446.P, effective August 10, 1993]

[Section 40.040 as amended by Ordinance No. 01-O-446.LL, effective February 21, 2001]

40.050 Yard and height requirements.

- A. The minimum front yard shall be 20 feet.
- B. The minimum side yard shall be 10 feet.
- C. The minimum street side yard shall be 15 feet.
- D. The minimum rear yard shall be 15 feet.
- E. Maximum building height shall be 40 feet, except as provided in Section 132.030. [As amended by Ordinance No. 98-O-446.DD, effective 9-9-98]

40.060 Signs. Signs shall be permitted in accordance with Section 88.

40.070 Parking. Off-street parking shall be provided in accordance with Section 92.

40.080 Other required conditions. Site plan approval required as provided in Section 80.

Section 44  
NEIGHBORHOOD COMMERCIAL (C-1) DISTRICT

Sections:

- 44.010 Purpose.
- 44.020 Permitted uses.
- 44.030 Accessory uses.
- 44.040 Conditional uses.
- 44.050 Yard, height and lot coverage requirements.
- 44.060 Signs.
- 44.070 Parking.
- 44.080 Other required conditions.

44.010 Purpose. This district is intended to provide for the location of small businesses and services in residential areas of the city. The businesses are intended to be limited in size and to hours of operation to serve the convenience retail needs of the neighborhood residents and to fit into the residential patterns of development without creating land use, architectural or traffic conflicts. New C-1 districts shall be so located to serve approximately 1,000 families within 1/2 mile radius where analysis of residential population demonstrates that such facilities are or will be required and shall be situated along a collector street.

44.020 Permitted uses. The following uses are permitted:

- A. Existing residential uses, without any increases in density.
- B. Grocery stores, including garden supplies.
- C. Barber and/or beauty shop.

44.030 Accessory uses. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities are permitted.

44.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit:

- A. Residential dwelling units not on the ground floor of a building.
- B. Conversion of an existing dwelling unit to a permitted use.
- C. Restaurants, including the sale of alcoholic beverages on the premises, but not including dancing or entertainment.

44.050 Yard, height and lot coverage requirements.

- A. The minimum front yard shall be 20 feet, and said yard area shall be appropriately landscaped and maintained.

- B. The minimum side and rear yard shall be ten (10) feet when abutting an "R" district and such side or rear yard shall be increased by one-half foot for each foot the building height exceeds 20 feet. Said yard area shall be appropriately landscaped and maintained.
- C. Maximum building height shall be 30 feet, except as provided in Section 132.030.
- D. The maximum lot coverage by buildings and structures shall not exceed 35 percent of the total lot area.

44.060 Signs. Signs shall be permitted in accordance with Section 88.

44.070 Parking. Off-street parking shall be provided in accordance with Section 92.

44.080 Other required conditions.

- A. Site plan approval required as provided in Section 80.
- B. Except for off-street parking and loading facilities, all uses shall be conducted wholly within an enclosed building.
- C. Items produced or wares and merchandise handled shall be limited to those sold at retail on the premises.
- D. All businesses shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [As added by Ordinance 00-O-446.JJ, effective as of May 24, 2000]

Section 48  
SHOPPING CENTER COMMERCIAL (C-2) DISTRICT

Sections:

- 48.010 Purpose.
- 48.020 Permitted uses.
- 48.030 Accessory uses.
- 48.040 Conditional uses.
- 48.050 Yard, height and lot coverage requirements.
- 48.060 Signs.
- 48.070 Parking.
- 48.080 Other required conditions.

48.010 Purpose. This district is intended to make provision within the city for larger concentrations of retailing and service commercial activities in the form of unified shopping centers planned and developed as an integrated unit. New C-2 districts shall have a minimum area of five (5) acres, shall be situated along a major street and shall be so located where analysis of population demonstrates that such facilities are or will be required.

48.020 Permitted uses. The following uses are permitted:

- A. Any permitted use in the C-1 district, except residential uses.
- B. Appliance sales (household), including minor repairs.
- C. Art galleries, libraries, and reading rooms.
- D. Artist supplies and picture framing.
- E. Auto parts sales (new).
- F. Banks and financial institutions.
- G. Book or stationery stores.
- H. Bicycle shops.
- I. Clothes cleaning agencies.
- J. Confectionery or delicatessens.
- K. Dancing or music schools.
- L. Drug stores.
- M. Dry goods stores, millinery shops, dress shops.

- N. Department stores.
- O. Florist shops.
- P. Food stores.
- Q. Furniture stores.
- R. Garden supply stores.
- S. Gift shops, notion or variety stores.
- T. Hardware stores or paint stores.
- U. Health food stores.
- V. Hobby shops.
- W. Home furnishings.
- X. Jewelry stores.
- Y. Laundry pick-up agencies, self-service laundries.
- Z. Leather goods and luggage.
- AA. Medical and dental clinics and offices.
- BB. Musical instruments.
- CC. Pet shops.
- DD. Photographic supplies and studios.
- EE. Professional and business offices.
- FF. Radio and television broadcasting studios and facilities.
- GG. Shoe stores, shoe repair shops.
- HH. Sporting goods.
- II. Toy stores.
- JJ. Variety stores.

**48.030** Accessory uses. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities, are permitted.

48.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit:

- A. Conversion of an existing dwelling unit to a permitted use.
- B. Public buildings and public utility buildings and structures as may be appropriate to the C-2 district.
- C. Commercial off-street parking lots or structures subject to the provisions of Section 92.
- D. Buildings over 40 feet in height.
- E. Restaurants, bars, cocktail lounges, including entertainment.
- F. Dwelling units not on the ground floor of a building.
- G. Hotels and motels.
- H. Motion picture theaters, other than drive-in theaters.
- I. Car washes and other automobile services.

48.050 Yard, height and lot coverage requirements.

- A. The front yard shall be a minimum of 20 feet, and said yard area shall be appropriately landscaped and maintained.
- B. The minimum side or rear yard shall be ten (10) feet when abutting an "R" district and such side or rear yard shall be increased by one-half foot for each foot the building height exceeds 20 feet. Said yard area shall be appropriately landscaped and maintained.
- C. No structures shall be over 40 feet in height except as allowed as a conditional use, and as provided in Section 132.030.
- D. The maximum lot coverage by buildings and structures shall not exceed 35 percent of the total lot area.

48.060 Signs. Signs shall be permitted in accordance with Section 88.

48.070 Parking. Off-street parking shall be provided in accordance with Section 92.

48.080 Other required conditions.

- A. Site plan approval required as provided in Section 80.

- B. Except for off-street parking and loading facilities, outdoor dining areas, gardens and nurseries, Christmas tree sales lots, all uses shall be conducted wholly within an enclosed building.
- C. Items produced or wares and merchandise handled shall be limited to those sold at retail on the premises.
- D. All business shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Section 48.080.D as added by Ordinance 00-O-446.JJ, effective as of May 24, 2000]

Section 52GENERAL COMMERCIAL (C-3) DISTRICT

[As amended by Ordinance No. 93-O-446.M, effective April 6, 1993]

Sections:

- 52.010 Purpose.
- 52.020 Permitted uses.
- 52.030 Accessory uses.
- 52.040 Conditional uses.
- 52.050 Maximum building height.
- 52.060 Signs.
- 52.070 Parking.
- 52.080 Other required conditions.

52.010 Purpose. This district is designed to stabilize, improve the protect the commercial characteristics of the central business district. Due to the interdependence of the various commercial uses upon pedestrian traffic and the necessity for joint provisions and utilization of off-street parking facilities, off-street parking is not required for individual commercial uses within this district fronting on U.S. Highway 101 (Chetco Avenue) easterly from Pacific Street.

52.020 Permitted uses. The following uses are permitted:

- A. Existing residential uses.
- B. One or more dwellings not on a ground floor, motels, hotels.[As amended by Ordinance No. 03-O-446.NN, effective February 27, 2003]
- C. Retail stores, shops, businesses and offices supplying commodities or performing services to meet the needs of the community, including: department stores, specialty shops, banks and financial institutions, personal and business service establishments, antique shops, artists supply stores, gift shops, hardware stores, drug stores, bakery shops, grocery stores, beauty and barber shops, garden and nursery shops, and other similar uses.
- D. Business and technical schools, photography, art, music and dance schools and studios.
- E. Restaurants, cafes, cocktail lounges, bars, taverns, including entertainment.
- F. Commercial recreational uses, such as bowling lanes, dance halls, pool halls, skating rinks, or theaters, not including drive-in theaters.
- G. Printing, publishing and newspaper offices.
- H. Light service shops such as upholsterers, picture framing, tailoring and appliance repair.



- I. Places for public assembly such as churches, meeting halls, auditoriums, community centers, lodges, clubs and fraternal organizations, mortuaries and crematories in conjunction with a mortuary and subject to Section 124.090. [As amended by Ordinance No. 93-O-446., effective February 9, 1993]
- J. Public buildings, structures and uses as may be appropriate to the C-3 district including transportation terminals and facilities.
- K. Commercial parking lots for passenger vehicles, subject to Section 92.
- L. Museums, art galleries or similar facilities.
- M. Professional or business offices.

52.030 Accessory uses. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities and the like, are permitted. On duty personnel living quarters, either conventional or manufactured, in conjunction with ambulance services and/or fire departments. [As amended by Ordinance No. 93-O-446.P, effective August 10, 1993]

52.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit:

- A. Automobile, boat, truck, or trailer sales, service or repair provided that all repair shall be conducted entirely within an enclosed building.
- B. Implement, machinery, and heavy equipment sales and service.
- C. Automobile service station, including automobile maintenance and repair which shall be conducted entirely within an enclosed building.
- D. Lumber or building materials sales and storage provided that service, business, sales and storage is either entirely within an enclosed building or enclosed within an eight (8) foot high, sight obscuring fence.
- E. Contractors offices and storage, provided all storage is either entirely within an enclosed building or within an eight (8) foot high, sight obscuring fence.
- F. Veterinarians, animal hospitals, and pet grooming, provided all business, service and kennels are entirely within an enclosed building.
- G. Buildings over 40 feet in height.
- H. Rental storage units, provided they are used exclusively for storage purposes. [As amended by Ordinance No. 00-O-446.II, Effective April 26, 2000]

- I. Day care, nursery schools, and kindergartens pursuant to Section 124.010 of this code. [Subsection I as added by Ordinance No. 92-O-446.H, effective March 10, 1992]
- J. Short-term rentals pursuant to the provisions of Section 124.170. [Subsection J as added by Ordinance No. 01-O-446.MM, effective January 17, 2002]

52.050 Maximum building height. No structures shall be over 40 feet in height except as allowed as a conditional use, and as provided in Section 132.030.

52.060 Signs. Signs shall be permitted in accordance with Section 88.

52.070 Parking. Off-street parking shall be provided in accordance with Section 92, except for those lots fronting U.S. Highway 101 (Chetco Avenue) easterly from Pacific Street.

52.080 Other required conditions.

- A. Site plan approval required as provided in Section 80.
- B. All businesses, services and processes shall be conducted entirely within a completely enclosed structure, except for conditional uses and off-street parking and loading areas, outdoor dining areas, nurseries and garden shops, Christmas tree sales lots, bus stations.
- C. In any C-3 district directly across a street from, or abutting any lot in an "R" district, the parking and loading area shall be set back at least 10 feet from the street right-of-way or lot line and said area shall be appropriately landscaped to protect the character of said adjacent residential properties. Such landscaping shall be maintained.
- D. All business shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Section 52.080.D as added by Ordinance 00-O-446.JJ, effective May 24, 2000.]

Section 56  
TOURIST COMMERCIAL (C-4) DISTRICT

Sections:

- 56.010 Purpose.
- 56.020 Permitted uses.
- 56.030 Accessory uses.
- 56.040 Conditional uses.
- 56.050 Maximum building height.
- 56.060 Signs.
- 56.070 Parking.
- 56.080 Other required conditions.

56.010 Purpose. This district is intended to make provision for tourist commercial uses which serve the traveling public and which are appropriate to major thoroughfare or highway locations. The appearance of developments in this district will have a significant visual impact on the traveling public concerning community values and these regulations are intended to protect and enhance the appearance of these vital areas of the community to the benefit and success of the entire community as a major tourist center.

56.020 Permitted uses. The following uses are permitted:

- A. Existing residential uses, without any increase in density.
- B. One or more dwellings not on a ground floor.[As amended by Ordinance No. O3-O-446.OO, effective July 9, 2003]
- C. Automobile car wash.
- D. Automobile service station, including automobile maintenance and repair which shall be conducted entirely within an enclosed building, provided that no major repair, overhaul or reconstruction shall be permitted.
- E. Commercial recreational uses such as bowling lanes, theaters, dance halls, pool halls, skating rinks, not including race tracks or auto speedways.
- F. Gift or souvenir shops.
- G. Motels, hotels and convention centers
- H. Restaurants, cafes, cocktail lounges, taverns and night clubs.
- I. Barber and beauty shops.
- J. Bus station, taxi stand.

- K. Places for public assembly such as community centers, clubs, lodges, fraternal organizations and auditoriums.
- L. Drug stores.
- M. Laundromats.
- N. Museums, art galleries, or similar facilities.
- O. Professional or business offices.
- P. Commercial off-street parking lots, or structures subject to the provisions of Section 92.
- Q. Banks, savings and loan institutions, and financial institutions.
- R. Marinas or launching facilities.
- S. Piers, docks and bulkheads.
- T. Boat storage, maintenance and service.
- U. Aquaculture and accessory facilities.

56.030 Accessory uses. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities and the like, are permitted.

56.040 Conditional uses. The following conditional uses may be permitted subject to a conditional use permit.

- A. Recreational vehicle park.
- B. Convenience market, limited to 1,000 square feet of retail area
- C. Golf driving range, golf course, miniature golf course and drive-in theater.
- D. Public buildings and public utility buildings, structures and uses.
- E. Rental storage units, provided they are used exclusively for storage purposes. [As amended by 00-O-446.II, effective as of April 26, 2000]
- F. Buildings over 40 feet in height.

56.050 Maximum building height. No structures shall be over 40 feet in height except as provided in Section 132.030.

56.060 Signs. Signs shall be permitted in accordance with Section 88.

56.070 Parking. Off-street parking shall be provided in accordance with Section 92.

56.080 Other required conditions.

- A. Site plan approval required as provided in Section 80.
- B. In any C-4 district directly across a street from, or abutting any lot in an "R" district, the parking and loading area shall be set back at least ten (10) feet from the street right-of-way or property line and said area shall be appropriately landscaped to protect the character of said adjacent residential properties. Such landscaping shall be maintained.
- C. All businesses shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Section 56.080.C as added by Ordinance 00-O-446.JJ, effective May 24, 2000]

Section 64  
INDUSTRIAL PARK (I-P) DISTRICT

Sections:

- 64.010 Purpose.
- 64.020 Permitted uses.
- 64.030 Accessory uses.
- 64.040 Conditional uses.
- 64.050 Yard, height and lot coverage requirements.
- 64.060 Signs.
- 64.070 Parking.
- 64.080 Other required conditions.

64.010 Purpose. This district is designed to provide for a combination of wholesale, heavy commercial and light industrial uses in areas of the community having minimal impact on surrounding area in relation to noise, odor, vibration, or visual nuisance, and to provide a suitable and stable environment for such uses.

64.020 Permitted uses. The following uses are permitted:

- A. Any use listed as a conditional use in the C-3 district, with the exception of Section 52.040, F, G, and I.
- B. Implement sales, service, repair and rental.
- C. Wholesale businesses, storage, warehousing transfer companies and trucking companies.
- D. Truck sales, service and repair.
- E. Public and public utility buildings and service yards.
- F. Contractors' offices and equipment storage yard or storage and rental of equipment commonly used by contractors.
- G. Carpenter, electrical, plumbing, sheet metal, welding, electroplating, heating, sign shops, auto and furniture upholstery shops, printing, publishing and lithographing shops, painting and sandblasting shops operated entirely within an enclosed building or within an eight (8) foot high, sight-obscuring fence.
- H. Cold storage plants.
- I. Bakery, creamery, soft drink bottling plant, laundry, dry cleaning, dyeing or rug cleaning.
- J. Feed, seed and fuel stores conducted entirely within an enclosed building or within an eight (8) foot high, sight-obscuring fence.
- K. Second hand store.

- L. Commercial parking lots, subject to Section 92.
- M. Veterinarian clinics.
- N. Administrative, educational and other related activities and facilities in conjunction with a permitted use.
- O. Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials such as cloth , plastic, wood (not including saw, planing or lumber mills or molding plants), paper, cotton, precious or semi-precious metals or stone.
- P. Manufacture of electric, electronic or optical instruments and devices.
- Q. Manufacture of food products, pharmaceutical and similar items, but not including the production of fish or meat products, or fermented foods, such as sauerkraut, vinegar or other materials having significant potential for odor or the rendering of fats or oils.
- R. Retail sale of items offered for wholesale, retail sale of items produced by any permitted manufacturing use, lumber yards (including sales of ancillary hardware), and sales of heavy equipment and other similar heavy bulk items. [Section 64.020, Subsection R as amended by Ordinance No. 94-O-446.R, effective March 16, 1994]
- S. Printing, publishing and book binding.
- T. Rental storage units and similar type storage areas, provided they are used exclusively for storage purposes. [As amended by Ordinance 00-O-446.II, effective April 26, 2000]
- U. Day care facilities when associated with any permitted or conditional uses.

64.030 Accessory uses. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities and the like.

64.040 Conditional uses. The following uses may be permitted subject to a conditional use permit:

- A. Service commercial uses such as banks, offices restaurants, cafes, refreshment stands, bars, taverns or other convenience establishments designed to serve developed permitted uses.
- B. Kennels and other animal boarding facilities, not abutting any R District.
- C. Buildings over 40 feet in height.
- D. Wireless communication facilities, pursuant to Section 168 of this code. [As added by Ordinance 99-O-446.GG, effective October 27, 1999]

64.050 Yard, height and lot coverage requirements.

- A. The minimum front yard shall be 20 feet, and said area shall be appropriately landscaped.
- B. The minimum side and rear yard setback shall be 10 feet when directly across the street or abutting a "R" District and such side or rear yard shall be increased by one-half foot for each foot the building height exceeds 20 feet.
- C. Maximum building height shall be 40 feet, except as allowed as a conditional use, and as provided in Section 124.030.
- D. The maximum lot coverage by buildings and structures shall not exceed 50 percent of the total lot area.

64.060 Signs. Signs shall be permitted in accordance with Section 88.

64.070 Parking. Off-street parking shall be provided in accordance with Section 92.

64.080 Other required conditions.

- A. Site plan approval required as provided in Section 80.
- B. All uses in this district shall be carried on entirely within an enclosed building except for parking and loading, provided that outdoor storage may be permitted when enclosed by eight (8) foot high, sight-obscuring fence, wall or landscaping.
- C. Any use or portion thereof causing noise, vibration, or producing intense heat or glare shall be performed in such a manner as not to create a nuisance or hazard on adjacent property.
- D. There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities as to be readily detectable at any point along or outside property lines so as to produce a public nuisance or hazard.
- E. Access points from a public road to properties in an I-P District shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- F. Opening to structures on sides adjacent to or across the street from a "R" District shall be prohibited if such access or openings will cause glare, excessive noise or other conditions such as to have adverse effects on property in the "R" District. Noise escaping from buildings adjacent to a "R" District shall not exceed 45 db at the adjoining property line.
- G. All side or rear yards directly across the street from or abutting a lot in a "R" District shall be appropriately landscaped to protect the character of the residential properties.
- H. All side and/or rear yards which require landscaping and fencing for visual and noise buffering adjacent to a "R" District shall consist of landscaping



materials of sufficient height at maturity to visually screen the industrial or commercial building, parking and storage areas from the residential area. The use of native or draught resistant plants is encouraged.

- I. A landscaping, irrigation and fencing plan shall be submitted to the Planning Department for review and approval. All required landscaping shall be maintained in a healthy condition.
- J. All businesses shall be conducted from a structure placed on a permanent foundation unless specifically exempted by the provisions of this or other city ordinances. [Section 64.080.J as added by Ordinance 00-O-446.JJ, effective May 24, 2000]

[Section 64 of the Land Development Code was amended in its entirety by Ordinance No. 93-O-446.M, effective April 6, 1993]

Section 68  
GENERAL INDUSTRIAL (M-2) DISTRICT

Sections:

- 68.010 Purpose.
- 68.020 Permitted uses.
- 68.030 Accessory uses.
- 68.040 Conditional uses.
- 68.050 Height requirements.
- 68.060 Signs.
- 68.070 Parking.
- 68.080 Other required conditions.

68.010 Purpose. This district is intended to provide for the establishment of heavier commercial and industrial uses essential to the development of a balanced economic base in an industrial environment with a minimum conflict between heavier commercial-industrial uses, and residential and light commercial uses.

68.020 Permitted uses. The following uses are permitted:

- A. Any use permitted in the I-P district.
- B. Any manufacturing, processing, repairing, research, assembling, wholesale or storage uses, excepting the manufacturing of explosives and the slaughtering of animals.
- C. All types of automobile, motorcycle, truck and equipment sales, service, repair and rental.
- D. Boat building, sales, service, repair and rental.
- E. Dwelling for a caretaker or watchman employed on the premises.  
[Section 68.020, Subsection A as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]

68.030 Accessory uses. Any uses, buildings or structures customarily appurtenant to a permitted use, such as incidental storage facilities and the like.

68.040 Conditional uses. The following uses may be permitted subject to a conditional use permit:

- A. Junk yards or wrecking yards.
- B. Buildings over 40 feet in height.
- C. Service commercial uses such as banks, offices, restaurants, cafes, refreshment stands, bars, taverns or other convenience establishments designed to serve developed permitted uses.

- D. Commercial excavation and removal of sand, gravel, stone, loam, dirt or other earth products, subject to Section 124.020.
- E. Abattoir.
- F. Wireless communication facilities, pursuant to Section 168 of this code. [as added by Ordinance No. 99-O-446.GG, effective October 27, 1999]

68.050 Maximum building height. No structure shall be over 40 feet in height, ~~except as~~ allowed as a conditional use, and as provided in Section 132.030.

68.060 Signs. Signs shall be permitted in accordance with Section 88.

68.070 Parking. Off-street parking shall be provided in accordance with Section 92.

68.080 Other required conditions.

- A. Site plan approval required as provided in Section 80.
- B. All business, service, repair, processing, storage or merchandise display on property abutting or across the street from a lot in an "R" district shall be conducted wholly within an enclosed building unless screened from the "R" district by means of an eight (8) foot high sight-obscuring fence, wall or landscaping, which shall be maintained.
- C. Opening to structures on sides adjacent to or across the street from an "R" district shall be prohibited if such access or openings will cause glare, excessive noise or other conditions such as to have adverse effects on property in the "R" district.
- D. In any M-2 district directly across a street from, or abutting any lot in an "R" district, the parking and loading area, and outdoor display or storage areas shall be set back at least ten (10) feet from the street right-of-way or property line and said area shall be appropriately landscaped to protect the character of said adjacent residential properties.
- E. Access points from a public road to properties in an M-2 district shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- F. Any use, or portion thereof causing noise, vibration, or producing intense heat or glare shall be performed in such a manner as not to create a nuisance or hazard on adjacent property.
- G. There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities as to be readily detectable at any point along or outside property lines so as to produce a public nuisance or hazard.

Section 70Master Plan Development (MPD) DistrictSections:

- 70.010 Purpose
- 70.020 General Provisions
- 70.030 Allowed Uses
- 70.040 Master Plan of Development (MPoD) Review Procedures
- 70.050 Acceptance of Application
- 70.060 Staff Evaluation
- 70.070 Review Criteria
- 70.080 Action by Planning Commission
- 70.090 Action by the City Council
- 70.100 Notice of Decision
- 70.110 Effective Date and Assurance
- 70.120 Effective Period of Master Plan of Development (MPoD) Approval
- 70.130 Modification of a Master Plan of Development (MPoD)
- 70.140 Detailed Development Plan (DDP) Review Procedures
- 70.150 Acceptance of Application
- 70.160 Staff Evaluation
- 70.170 Review Criteria for Determining Compliance with Master Plan of Development (MPoD)
- 70.180 Action by the Planning Commission
- 70.190 Effective Date
- 70.200 Effective Period of Detailed Development Plan (DDP) Approval
- 70.210 Modification(s) of a Detailed Development Plan (DDP)
- 70.220 Determining Compliance

70.010 Purpose. The Master Planned Development (MPD) zone is a land use district. The Master Planned Development zone may be applied on sites that are 50 acres or greater in size. The MPD zone shall implement the MP Comprehensive Plan designation, which shall be placed on all land requiring a “Master Plan of Development” in the Urban Growth Management Agreement, (UGMA) adopted by the City and the County. Upon or subject to annexation into the City, the MP Comprehensive Plan designation shall be applied to all land that is required to adopt a “Master Plan of Development” (MPoD) in the Urban Growth Boundary. In addition, the City may apply the MPD designation to other lands within the City.

The MPD zone is to be implemented through the approval of a MPoD that describes in detail, as outlined in this section, how the development of the property will occur and how the development will implement applicable goals and policies of the City’s Comprehensive Plan, and applicable provisions of the Land Development Code. The MPoD will assess and minimize, to an acceptable level, the impacts of the development on the City’s services, infrastructure, transportation systems and neighboring properties. As the MPD zone is implemented through an approved MPoD, no development shall be allowed until applicable requirements of Section 70 are met. Compliance with applicable plan goals and policies is deferred until the MPoD review.

Master Planned Development review procedures are established in this chapter for the following purposes:

- A. Promote flexibility in design and permit diversification in location of structures;
- B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;
- C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion;
- D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;
- E. Combine and coordinate architectural styles, building forms and building relationships within the Planned Development;
- F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design monies, while providing the City with assurances that the project will retain the character envisioned at the time of approval;
- G. Promote and encourage energy conservation; and
- H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project.

70.020 General Provisions. Development within a Master Planned Development (MPD) zone is governed by the approval of a MPoD which can be developed in a single phase or in multiple phases. Prior to development a MPoD must be approved and prior to construction of any phase a Detailed Development Plan (DDP) must be approved. On sites where a MPD designation exists on the City's Official Zoning Map the provisions of Section 70 shall apply. The following procedure allows for Planning Commission review of a MPoD and Detailed Development Plan. An application to apply the MPD zone to specific properties may be submitted and reviewed concurrent with MPoD approval. The applicant may either select to process the development proposal under a DDP concurrent with approval of the MPoD or may request only approval of a MPoD in accordance with Section 70.050 and later apply for a DDP for an individual phase or phases of the project. However, prior to issuing any building permits a DDP must be approved by the Planning Commission.

An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or

drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations.

70.030 Allowed Uses. The following uses are allowed outright when they are included in an approved MPoD.

- A. All uses allowed outright and conditionally in the R-1, R-2, R-3 zones;
- B. All uses allowed outright and conditionally in the C-1, C-2, C-3 and C-4 zones.
- C. All uses allowed outright in the I-P and M-2 districts.

70.040 Master Plan of Development (MPoD) Review Procedures. An application filed for a MPoD shall be reviewed in accordance with the following procedures.

#### Application Requirements

Applications shall be made on forms provided by the City. The person filing the application must be the owner or a person having an interest in the land to be included in the MPoD. If the MPoD is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having an interest in each of the separately owned properties to be included.

The application shall be accompanied by the following:

- Three copies of the narrative on 8.5 in. by 11 in. sheets;
- Four sets of full-scaled black line drawings of the MPoD graphic(s), with sheet size not to exceed 30 in. by 42 in. Where necessary, an overall plan with additional detail sheets may be submitted; and
- One set of the graphics shall be reduced to fit on 8.5 in. by 11-in. sheets of paper. Graphics, and related names/numbers must be legible on this sheet size.

#### A. Graphic Requirements

A MPoD shall include the following information where applicable:

1. Public Notice map including properties within 250 feet of the boundary of the MPoD.
2. Existing land use map (typically a topographic map that extends at least 300 ft. beyond the site. The map includes existing building footprints and makes a distinction between single-family, multi-family, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);

3. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend - placed in the same location on each sheet and containing the following:
  - (a) Existing site conditions including contours at intervals sufficient to indicate topographic conditions, watercourses, flood plains, and any unique natural features;
  - (b) Slope Analysis for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard.
  - (c) Boundary of the Proposed MPoD and any interior boundaries related to proposed development phases or land divisions;
  - (d) Land use areas identified as dedicated to residential use within the MPoD, shall be identified as such and indicating the type of residential use, the number of units within the area and resulting density.
  - (e) General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic uses;
  - (f) Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, service areas, loading areas, and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;
  - (g) Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, and water, where appropriate;
  - (h) Sufficient information on land areas within at least 150 ft of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;
  - (i) Location of natural resource, historic and cultural resources as identified on adopted City and County inventories.
4. The City Planner may also require additional information to evaluate the proposal.

B. Narrative Requirements. A written statement shall include the following information:

1. Statement of planning objectives to be achieved by the project. This statement should indicate a description of the character of the proposed

development, and a discussion indicating how the application meets the review criteria in Section 70.080.

2. Statement addressing how the project is in compliance with the applicable goals and policies of the Comprehensive Plan.
3. Quantitative data for the total concept development plan for the following where appropriate:
  - (a) Total number and type of dwelling units;
  - (b) Parcel size;
  - (c) Proposed lot coverage of buildings and structures where known;
  - (d) Gross densities per acre;
  - (e) Approximate allocation and amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas);
  - (f) General type and location of land committed to nonresidential construction uses. The applicant may specify a list of allowable uses within the master plan area which may not include all uses allowed in the underlying zone.
4. General statement of intentions concerning timing, responsibilities, and assurances for all public and non-public improvements, such as irrigation, private roads and drives, landscape, and maintenance;
5. Statement describing project phasing, if proposed. Phases shall be:
  - (a) Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development;
  - (b) Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and
  - (c) Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the MPoD.
  - (d) Phasing plan including timing for construction and provision of dwelling units, parcel sizes and open space by phase.
6. Traffic Impact Study consistent with Phasing Plan.



70.050 Acceptance of Application

- A. The City Planner shall review the application in accordance with Section 4, Development Permit Procedures.
- B. After accepting a complete application the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Section 84, Public Hearing Notice Procedures.

70.060 Staff Evaluation The City Planner shall prepare a report that evaluates whether the MPoD complies with the review criteria. The report shall also include a recommendation for approval or denial and, if needed, a list of conditions for the Planning Commission to consider if an approval is granted.

70.070 Review Criteria The Planning Commission shall approve an application for MPoD upon finding that the following approval criteria be met:

- A. The proposed MPoD is consistent with the purposes identified in Section 70.010 and the intent of the MPD zone;
- B. The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the Planning Commission either at the time of approval of the MPoD or by a modification to the MPoD. If at the end of 10 years the project is not built out, the Planning Commission shall review the MPoD and shall have the ability to require changes to or rescind the plan based on existing conditions
- C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase.
- D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site.
- E. The applicant demonstrates that all deviations from the development standards are warranted.
- F. The circulation proposed MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic.
- G. The proposed MPoD meets the applicable requirements of the Urban Growth Boundary Joint Management Agreement.

70.080 Action by Planning Commission The Planning Commission shall conduct a public hearing in accordance with Section 144.040. Following the close of the hearing the Planning Commission shall recommend the approval, conditional approval or denial of the MPoD. The recommendation shall be reported to the City Council by filing said recommendation with the City Recorder. The Commission's recommendation shall include findings that specify how the application has or has not complied with the above review criteria.

70.090 Action by the City Council

- A. Upon receipt of said report from the Planning Commission or upon the expiration of such 90 days as aforesaid, a public hearing is automatically set for the next regular City Council meeting following the receipt of the report; provided, however, that the Council may, by motion, set the date of such public hearing at such other time or at such other place it desires.
- B. At the conclusion of the public hearing, the Council may enact an ordinance granting approval of the MPoD, approval of the MPoD with conditions, or may, by motion, deny the granting of the MPoD.

70.100 Notice of Decision The City Planner shall provide the applicant with a notice of decision in accordance with Chapter 4 – Development Permit Decisions and other applicable legal requirements, that includes a written statement of the City Council decision, a reference to findings leading to it, any conditions of approval, and appeal period deadline. A notice of decision shall also be mailed to persons who presented testimony orally or in writing at the public hearing.

70.110 Effective Date and Assurance The decision of the City Council shall become effective 15 days from when the Notice of Decision is mailed.

Approval of the MPoD shall assure the applicant the right to proceed with the development in substantial conformity with the Plan and approval of the DDP, subject to such modifications as may be authorized. Changes to zoning ordinances, policies and standards adopted after the date of approval of the Plan shall not apply to the development during the duration of the Plan.

70.120 Effective Period of Master Plan of Development (MPoD) Approval If the applicant has not submitted a DDP for the Planned Development or the first phase within four years from the date of approval, the MPoD shall expire. Where the Planning Commission finds that conditions have not changed, the Commission may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements. If after the approval of the first DDP, construction has not been started or at any time construction has lapsed for a period of three (3) years, the MPoD will expire.

70.130 Modification of a Master Plan of Development (MPoD) An applicant may request modification of an approved MPoD subject to the review criteria set forth above as applicable to the initial approval of the Plan and subject to the following review procedures (all modifications within Section 70, relating to a change in traffic trip generation shall based on the most recent edition of the Institute of Transportation Engineers {ITE} manual):

- A. A modification shall qualify for a minor review if the proposed modification request results in an increase in traffic generation trips equal to or less than 10 percent of the total peak hour trips anticipated in the MPoD, as approved. The City Planner shall make the determination as to whether a proposed modification is major or minor. A minor modification may be approved conditionally, approved, or denied by the City Planner. If the City Planner determines that the proposed minor modification has significant impacts of a magnitude equivalent to those of a major modification, the City Planner may refer the matter to the Site Plan Committee to determine if the application should be referred to the Planning Commission for decision. The following notice and appeal requirements apply to a decision by the City Planner to allow, allow conditionally, or deny:
  1. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all of the information required by 70.140, modification of a MPoD.
  2. Notice of a request. Within 7 days of receiving the complete application the City Planner will mail a notice of the request to all property owners within 250 feet of the lot and to persons on record as interested parties.
  3. Processing time. A twenty (20) calendar day written comment period shall be provided from the time notice is mailed to provide interested persons with an opportunity to submit written comments about the proposed modification before the City Planner makes a decision on the request.
  4. Decision. Upon close of the comment period the City Planner shall review all written comments actually received by the Department within the comment period and the applicant's response to the comments. The City Planner shall then issue a decision. The Notice of Decision shall be mailed to the applicant and those provided notice.
  5. Appeal. The decision of the City Planner shall be final. Within 15 days of the mailing of the Notice of Decision, an appeal may be made to the Planning Commission.

- B. A modification shall qualify for a major review if the proposed modification results in an increase in traffic trips greater than 10 percent of the total peak hour trips anticipated in the approved MPoD. In reviewing a major modification request, the Commission shall follow the procedures required for a MPoD submittal.
- C. In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

70.140 Detailed Development Plan (DDP) Review Procedures The applicant can request that each phase or a portion of a phase be reviewed in accordance with the DDP review procedures, so long as each detailed development plan is in substantial conformance with the MPoD.

Application Requirements: An application filed for a DDP shall address the requirements specified for a MPoD above and include the following additional information:

- A. Graphic Requirements: In addition to the graphic requirements specified for a MPoD, a DDP shall include:
  1. Topographic contours at 2-ft minimum intervals for slopes under 20 percent and at 5-ft. minimum intervals for slopes at or greater than 20 percent. Where the grade exceeds 15 percent or where the development site abuts existing developed lots, a grading plan shall be required. If a grading plan is required, it shall conform to the standards established in Section 100, unless alternative standards are proposed at the time of the DDP approval.
  2. For all buildings except single family and duplex homes, the location of existing and proposed structures and other improvements, including maximum heights, building types, and gross density per acre (for residential developments) and location of fire hydrants, existing overhead lines in the abutting right of way, easements and walkways;
  3. Typical elevations of buildings and structures (which may be submitted on additional sheets) sufficient to indicate the architectural intent and character of the proposed development for all buildings except single family and duplex residential;
  4. Landscape plan drawn to scale showing location of existing trees and other significant vegetation proposed to be removed from or to be retained within the area of the site to be developed, location and design of landscaped areas, varieties and sizes of trees and plant materials to be planted, other landscape features including walls and fences, and irrigation systems proposed to maintain plant materials. Identification of trees shall be in compliance with Section 176.060.B.16 of the Brookings Land Development Code.

5. Utilities plan indicating how sanitary sewer, storm sewer, drainage, and water systems will function and how negative impacts to existing sanitary sewers, storm sewers, drainage and water systems of adjacent properties will be avoided;
  6. Circulation plan showing street, driveway, parking area, service area, loading area, pedestrian way, and bikeway improvements and their dimensions;
  7. Location and dimensions of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semipublic areas;
  8. Exterior lighting plan indicating the location, size, height, typical design, material, color, and method and direction of illumination;
  9. Types and locations of trees to be preserved or planted.
- B. Narrative Requirements: In addition to the narrative requirements specified for a MPoD above, the DDP shall include:
- a. Proposals for setbacks or approximate building envelopes, lot areas where a concurrent land division is proposed and number of parking spaces to be provided (in ratio to gross floor area or number of units);
  - b. Updated statement outlining timing, responsibilities, and assurances for all public and non-public improvements such as irrigation, private roads and drives, landscape, and maintenance; identify any changes since approval of MPoD.
  - c. Statement addressing compatibility of proposed development to adjacent land uses relating to such items as architectural character, building type, and height of proposed structures;
  - d. Statement demonstrating consistency with adopted traffic impact study and the Transportation Plan.
- C. Tentative Plat: If a MPoD is to be partitioned or subdivided, a tentative plan or plat shall also be submitted as part of a MPoD or DDP submittal in accordance with Section 176, Land Divisions, to permit simultaneous review.

70.150 Acceptance of Application:

- A. The City Planner shall review the application in accordance with Section 4 – Development Permit Procedures.
- B. After accepting a complete application the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing

shall be provided in accordance with Section 4, Development Permit Procedures.

70.160 Staff Evaluation The City Planner shall prepare a report that evaluates whether the DDP complies with the review criteria below. The report should include a recommendation for approval or denial and, if needed, a list of conditions for the Planning Commission to consider if an approval is granted.

70.170 Review Criteria for Determining Compliance with Master Plan of Development (MPoD)

- A. Request for approval of a DDP shall be reviewed to determine whether it is in substantial conformance with the MPoD. The DDP shall be deemed to not be in substantial conformance with the MPoD if it results in any of the following types of changes from the MPoD.
1. Increase in development density and/or intensity that results in a peak hour trip generation of greater than 10 percent of the total approved in the MPoD.
  2. Increase in the floor area proposed for nonresidential use by more than 10 percent from what was previously specified;
  3. Reduction of more than 10 percent of the area reserved for common open space and/or usable open space from what was previously specified;
  4. Increase in the total ground area proposed to be covered by structures by more than 5 percent from what was previously specified;
  5. Reduction of specific setback requirements by more than 25 percent where previously specified; and
  6. Reduction of project amenities provided such as recreational facilities, screening, and/or landscaping provisions by more than 10 percent from what was previously specified.
  7. If subdivision or partition, the application does not meet the applicable requirements of Section 176 of this code.
- B. All deviations within the limits set by the criteria in "A" above from those of the approved MPoD shall be justified and explained either in the required graphic or narrative materials.

70.180 Action by the Planning Commission The Planning Commission may approve, conditionally approve, or deny the DDP. The Planning Commission's decision shall include findings that specify how the DDP is or is not in substantial conformance with the MPoD.

70.190 Effective Date The decision of the Planning Commission shall become effective 15 days from when the Notice of Decision is mailed unless an appeal is filed.

70.200 Effective Period of Detailed Development Plan (DDP) Approval

- A. Approval of a DDP shall be valid for a 3-year period from the date of initial approval. If the applicant has not begun construction within this time frame, the approval shall expire. At its discretion and without a public hearing, the Commission may extend the approval one time for a period not to exceed 2 additional years per extension.
- B. The Planning Commission may permit implementation of the DDP in phases.

70.210 Modification(s) of a Detailed Development Plan (DDP) This section identifies the processes by which an approved DDP may be modified. Such modifications are necessary to the extent that final building and construction plans are not in substantial compliance with the adopted DDP. In general, such plans may be modified in two ways, depending upon the degree of modification proposed. These include:

- A. Changes that modify the approved plan but do not increase traffic trips by more than 10 percent of traffic trips generated by the development approved in the MPoD may be approved, approved with conditions, or denied by the City Planner pursuant to applicable public notice and hearing opportunity requirements. If the proposed changes do not increase traffic trips by more than 10 percent but the changes have significant impacts of a magnitude equivalent to a 10 percent traffic increase, the City Planner may refer the matter to the Site Plan Committee to determine if the application should be referred to the Planning Commission for decision.
- B. Those changes which cause an increase in the traffic trips greater than 10 percent of those generated by the development approved in the MPoD, may be approved, approved with conditions or denied by the Planning Commission in accordance with Section 70.090. (Major Development Plan Modification).

In a modification, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

70.220 Determining Compliance A building permit or other site development permit request shall be in substantial compliance with DDP and all modifications.

EFFECTIVE August 13, 2003

Section 72  
MARINE ACTIVITY (MA) DISTRICT

Sections:

- 72.010 Purpose.
- 72.020 Aquatic development (AD) shallow draft.
- 72.030 Water-dependent (WD) development subarea.
- 72.040 Public recreation (MR).
- 72.050 Priority dredge material disposal sites (DMD)
- 72.060 Shoreland and aquatic development standards - Chetco Estuary.
- 72.070 Addition standards and review procees for conditional uses in the marine activity zone.
- 72.080 Development review procedure.
- 72.090 Technical findings.

72.010 Purpose. The Marine Activity Zone is to provide areas at the Port of Brookings and along development shorelands of the Chetco River, for commercial, industrial and recreation activities that depend or are benefitted by a waterfront location, and to reserve such areas for those uses and the facilities and accommodations necessary to support the tourist and fishing industries.

Water surface areas will be designated for development, conservation or preservation (AD, AC, AN). Shorelands in the Marine Activity Zone will be divided into subareas (WD, WR, MC, MR, DMD), to assure that a variety of economic activities, tourist facilities and active and passive recreation can occur along the Chetco, within the carrying capacity of existing shoreland and aquatic areas. Reference the maps marked attachments "A", "B" and "C", being made a part hereof.

Management units, their resource capability purpose, priorities, and permitted uses, WITHIN THE BROOKINGS CITY LIMITS, include:

72.020 Aquatic development (AD) shallow draft.

- A. Purpose of management units. To provide a shallow draft navigation system serving sites suitable for shoreland development, and to provide for more intense use or alteration of aquatic areas to serve water-dependent development, as consistent with the purposes of this shallow draft development estuary and goals of this estuary plan.
- B. Priority activities in these areas will include:
  - 1. Channel and jetty maintenance.
  - 2. Water-dependent commercial.
  - 3. Industrial.



4. Recreation activity at the Port of Brookings.
  5. Navigation improvements.
  6. Moorage and marinas.
  7. Extraction and shipment of gravel.
- C. Aquatic development (AD). Uses permitted with standards include:
1. Maintenance dredging and dredge for water dependent uses.
  2. Piling and dolphin installation.
  3. Navigational aids.
  4. Docks for industrial and commercial trans-shipment and for commercial and sport basins.
  5. Dredged marinas and boat basins.
  6. Jetty and dike construction and maintenance.
  7. Active and passive restoration.
  8. Aggregate extraction under existing permits.
  9. Excavation to create new navigable water area.
  10. Expansion of moorage areas serving water-dependent development.
  11. Water storage areas for water-dependent uses.
- D. Conditional uses:
1. Fill of estuarine waters for water-dependent activity.
  2. New gravel extraction sites.

72.030 Water-dependent (WD) development subarea.

- A. Purpose. These subareas are reserved for priority water-dependent development that can make effective use of a waterside location. It is to be assumed that the activities listed here are allowed in WD subareas of the MA zone. Standards will be used to assure that development occurs in a manner consistent with the carrying capacity of the estuary and purposes of the management unit, Section 72.060.

- B. Uses permitted with standards. The following uses shall be permitted subject to standards pursuant to Section 72.060:
1. Barge and other industrial docks, backup land and facilities supporting waterborne commerce.
  2. Marineways.
  3. Wharves and piers; marine facilities.
  4. Seafood and other marine products receiving and processing.
  5. Boat moorage, ramp, and launch facilities.
  6. Cold storage, repair, and other direct services to water-dependent activity.
  7. Dredge material disposal.
  8. Navigational aids.
  9. Excavation to create new water area.
  10. Jetty and dike maintenance.
  11. Shoreline stabilization (vegetation, rip rap, bulkhead, retaining wall).
  12. Fill of shoreland for water-dependent use or that cause no loss of shoreland available to WD use.
  13. Utilities to serve water-dependent use or that cause no loss of shoreland available to WD use.
  14. Access roads necessary to water-dependent use.
  15. Drydock facilities.
  16. Temporary parking, boat trailer storage, RV parks that make no structural improvements that would preclude use of the site for WD use.
- C. Conditional uses. The following uses are permitted subject to receipt of a conditional use permit and standards listed in Section 72.060:
1. Land transportation facilities not necessary for water-dependent use.
  2. Low intensity recreation.
  3. Construction of new dikes.

4. Offices providing services to water-dependent activity.
5. Activities not here listed that require water access for transportation, recreation, or as an energy or water source; or provide direct services to a water-dependent use and do not impede the marine industrial activity that is the priority use of these WD shorelands.

72.040 Public recreation (MR).

- A. Purpose. The Chetco Estuary and adjacent beaches provide many areas of unique value and benefit as open space, for surf and jetty fishing, beach walking, swimming or just looking at the view. Within the Marine Activity Zone, certain areas have been designated for these passive recreation uses, in areas safe from more intense port activity.
- B. Uses permitted with standards. The following uses are permitted subject to standards pursuant to Section 72.060:
  1. Low intensity recreation.
  2. Public parking for open use only, on the landward side of recreation areas.
  3. Restoration (e.g. beach nourishment).
- C. Conditional uses. The following uses are permitted subject to receipt of a conditional use permit and standards listed in Section 72.060:
  1. Public restroom facilities if not provided in adjacent support area.
  2. Stormwater outfalls, wastewater outfalls.

72.050 Priority dredge material disposal sites (DMD).

- A. Purpose. The purpose of DMD subareas in Marine Activity Zones is to protect essential DMD sites from incompatible and preemptive uses that could limit their ultimate use for deposit of dredge material, and thereby limit the Port of Brookings and the Corps of Engineers from maintaining a navigable channel in the Chetco.
- B. For subareas designated DMD, the following standards shall apply.
  1. Structural improvements (e.g. construction of buildings) or other alteration of topography that would preempt use of the site for the amount of DMD planned will be prohibited until such time as alternative sites providing equivalent capacity to meet five year disposal needs (within convenient reach of planned dredging projects) have been identified; and these alternate sites have been protected by plan amendment.

72.060 Shoreland and aquatic development standards - Chetco Estuary.

- A. These shoreland and aquatic standards are requirements that apply to all development in Marine Activity Zones along the Chetco River.

These standards are intended to establish the conditions under which activities permitted-with-standards and conditional uses are appropriate along the Chetco; to assure that property owners (both the Port of Brookings and private owners) know up-front the conditions under which they can expect development approval and to protect the unique economic, social and environmental values of the Chetco River Estuary.

- B. Dock/moorage/port facility standards.

1. Moorage areas along the river or dike, as well as floating structures, will be constructed so as to minimize adverse effects on navigation, water currents, erosion, and accretion patterns, flushing characteristics, aquatic habitat and fishery resources.
2. Piers and floats shall extend no further out into the navigation channel than necessary to serve the activity planned. Size and shape of docks and piers will be limited to that necessary for the intended purpose.
3. New moorage areas excavated from existing shorelands will be constructed so as to cause a net increase in the water surface area of the river.
4. Multi-purpose use of moorage, parking, cargo handling and storage facilities will be encouraged.
5. Design and construction measures will be identified that will minimize adverse impacts on adjacent natural and conservation areas to a level consistent with the resource capability and purpose of the affected management unit.
6. Facilities and locations for public viewing of the waterfront (e.g., walkways, seating, fishing areas) will be provided in areas where this use will not conflict with port or industrial operations.
7. Applicants proposing new marina facilities will present design and construction plans to minimize adverse impacts on water quality, navigation, sedimentation rates and patterns, aquatic habitat (e.g., intertidal structures or gravel beds that support algae growth), adjacent uses and aquatic areas.

8. Unless part of an approved fill project, materials extracted from aquatic areas shall be placed above mean higher high water in such a manner that water quality is not deteriorated during fish spawning and migratory seasons, and the floodways and water surface area of the estuary are not decreased.
9. Other policies in this section will also apply.

C. Pilings and dolphins standards.

1. Present design and construction plans that minimize adverse impacts on navigation, water circulation and transport, aquatic life, and habitat consistent with maintaining the cost effectiveness of the structure.
2. Demonstrate that the construction is the minimum necessary to accomplish the purpose.

D. Dike standards.

1. The outside face of dikes shall be suitably protected to prevent erosion, and to maintain structural surface areas where silt and algae can accumulate during low water months.
2. New dike alignment and configuration shall not cause an increase in erosion or shoaling in adjacent areas or an appreciable increase in back-water elevation.
3. New diking of aquatic areas is subject to Fill Standards Section 72.060.K. New dikes for the purpose of flood protection will be placed on shorelands and not in aquatic areas.

E. Land transportation and utility corridor standards.

1. Land transportation and utility corridors will be located on WD, WR shoreland and aquatic areas only to serve WD, WR use or where no practical upland alternative exists.
2. Permanent parking will be located on the landward side of marine activity and developed property.
3. Roads and pedestrian ways in the Marine Activity Zone will assure convenient access to water-dependent uses.

F. Restoration standards.

1. Restoration of shallow gravel bars that accumulate algae, silt, and amphipod populations during the summer season will be encouraged, in

areas where such shallow water will not conflict with navigation or approved gravel extraction projects.

2. Restoration or improvement of the natural river channel to serve sport fishing and recreation will be encouraged, within the conditions outlined in Dredge Standards, Section 72.060. J.
3. The above active restoration will be allowed only if it will contribute to the long-term environmental, economic, and social value of the estuary or will restore areas of heavy erosion or sedimentation, degraded fish and wildlife habitat, anadromous fish spawning areas, abandoned diked estuarine waters for fish harvest or for human recreation; and the project identifies original conditions to be restored, the cause of the loss or degradation, and the site and actions necessary to respond to the causes and to achieve the restoration objective.

G. Shoreline stabilization standards.

1. Identified riparian vegetation will be maintained within the shoreland boundary, except the disturbance essential to approved development projects.
2. All areas along the riverbank disturbed or newly created by construction activity will be revegetated or given structural protection necessary to prevent erosion. Natural materials and vegetation will be preferred, except in cases where the force of river currents or other characteristics make structural materials preferable.
3. Only clean, durable riprap will be used. All piling and lumber treated with creosote or other protective material will be completely dry before use in or near the waterway.

H. Gravel extraction standards.

1. The operator of a surface mine shall present to the local government one copy each of a state-approved surface mining plan and a reclamation plan before commencing operations.
2. Applicants for mining and mineral extraction projects shall demonstrate that the activity is sited, and designed, and will be operated and maintained to minimize adverse impacts on the following:
  - a. Aquatic life and habitat, including but not limited to the spawning, rearing and passage requirements of anadromous fish;
  - b. Bird and wildlife habitat;

- c. Hydraulic characteristics, including but not limited to circulation and the alteration of local currents that may affect adjacent shoreline areas by causing erosion, accretion, or increased floodings;
    - d. Water quality.
  3. Unless part of an approved fill project, the materials extracted from aquatic areas shall be placed above mean higher high water in such manner that sediment will not enter or return to the waterway.
  4. Gravel extraction operators will be regulated by other appropriate standards in this ordinance, such as shoreline stabilization, dike restoration.
  5. Gravel extraction will be regulated in accord with the State Removal/Fill permit and Corps or Engineers permit processes, and except under special circumstances, will avoid the spawning period and upstream migration of import fish species. (see inventory)
- J. Dredging standards.
  1. Dredging in aquatic areas shall only be permitted if required for:
    - a. Navigation or navigational access;
    - b. A permitted or conditional use that required an estuarine location;
    - c. An approved restoration project;
    - d. Mining/gravel extraction;
    - e. A permitted or conditionally permitted bridge footing excavation or utility foundation;
    - f. Maintenance of dikes, drainage ditches, or tidegates.
  2. The above-mentioned dredging in aquatic areas shall be allowed only:
    - a. For the water-dependent uses outlined in the Chetco Estuary Plan and this ordinance that have been found to be important to the economic, social and environmental goals of the Brookings area;
    - b. When adverse impacts are minimized as outlined in this ordinance;
    - c. When dredging is the minimum necessary to accomplish the purpose.

3. Erosion, sedimentation, increased flood hazard, and other undesirable changes in circulation shall be avoided in dredging and in the disposal of dredged materials. Tidal marshes, tidal flats, and other wetlands shall not be adversely affected.
4. The timing of dredging and disposal in aquatic areas shall be coordinated with state and federal resource agencies and/or will avoid the spawning period and upstream migration of important fish species to ensure adequate protection of estuarine resources (fish runs, spawning, benthic productivity, wildlife, etc.), and to minimize interference with commercial and recreational fishing activities.
5. Minor dredging of existing channels and drainage ways will be limited to the amount necessary to maintain navigability and flow capacity (18" in the authorized channel and that necessary to serve small boat traffic upriver).
6. Adverse short-term effects of dredging and aquatic disposal such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of the food chain, loss of benthic productivity, and disturbance of fish runs and important localized biological communities shall be minimized on-site and in areas adjacent.

K. Dredge material disposal standards.

1. Materials dredged from the Chetco are primarily fine silts and gravel for which there is a market demand, or which is valued for foundation material on shoreland development sites, or road construction. Standards listed here will regulate how dredged materials may be handled to maximize their value, and to minimize estuarine damage and public costs.
2. Priority dredge material disposal sites adequate to handle disposal needs of planned projects have been identified. DMD subareas adequate to handle five-year projected needs, in accord with these standards will be reserved for DMD use. Sites adequate to meet 20-year dredging needs will be identified and made part of long-term disposal plans.
3. Dredge material disposal will meet the following standards:
  - a. Dredging standards 72.060.I, shall apply.
  - b. Dredge material shall not be disposed of or in an intertidal marsh or in estuarine waters unless part of an approved fill project.



- c. Ocean disposal of dredge materials shall be allowed, provided interference with sport and commercial fishing is minimized, and disposal is confined to designated disposal sites.
- d. Disposal at approved gravel excavation sites will be allowed, to allow for marketing of dredge materials.
- e. Disposal of dredge material on designated DMD sites and on shoreland development sites will be allowed under the following conditions:
  - (1) Riparian vegetation standards, Section 72.060.G, shall apply.
  - (2) Disposal causes no limiting of the floodway and the minimum necessary limits on the capacity of the 100-year floodplain.
  - (3) Floodplain regulations in existence under city ordinances will apply.
  - (4) Surface runoff from disposal shall be controlled to protect water quality and to prevent sedimentation of adjacent water or wetlands.
- f. Temporary stockpile on shoreland sites not intended for immediate development will be allowed, until such time as WD project is approved.
- g. Disposal allowed by these standards will be stabilized by vegetation or other acceptable means, as necessary to prevent wind and water erosion.
- h. The final height and slope after each use of a DMD site shall be such that:
  - (1) The site does not slough and erode into adjacent areas or into the water.
  - (2) Interference with capacity of 100-year floodplain is minimized.

L. Fill standards.

- 1. The water surface area of the Chetco Estuary is limited, and heavy stream flows between November and April may cause flooding conditions. Therefore, fill of estuarine waters will be limited by and permitted only if the following standards are met:
  - a. Essential to a water-dependent use that requires an estuarine location;

- b. Essential to a permitted bridge footing or utility foundation;
  - c. An approved restoration project;
  - d. Navigational structures and improvements;
  - e. Approach to low water bridges;
  - f. Flood control structures or structural shoreline stabilization;
  - g. A public need is demonstrated, as defined by official city, county or state legislation;
  - h. No alternative upland locations exist.
2. A fill shall be the minimum necessary to accomplish the purpose.
  3. Where existing public access is reduced, suitable public access as part of a development project shall be provided; however, project fill requirements shall not be expanded in order to provide public access.
  4. Approved fill projects will demonstrate how loss of water surface area will be mitigated by addition to the surface area or floodway, in the vicinity of the fill area, or by creation or restoration of an area of similar biological potential to ensure that the integrity of the estuarine ecosystem is maintained.
  5. Any approved fills of intertidal areas will be subject to mitigation requirements of the Oregon Fill and Removal Law.
  6. Fill activities in the Aquatic Conservation Zone are permitted only as part of maintenance and protection of existing structures, and active restoration.

72.070 Additional standards and review procedures for conditional uses in the Marine Activity Zone.

- A. Purpose of the conditional use review and standards. To evaluate and allow for activities not listed as permitted-with-standards, but that are within the purposes of the management unit and the capacity of estuarine and economic resources, and the development review procedures, shoreland and aquatic development standards, and the public notice procedures shall apply.
- B. Conditional uses shall meet the following additional requirements:
  1. Proposed activity will be evaluated in terms of standards, technical findings, agency recommendations, and permit requirements referenced

above, to determine if it is within the purposes of the management unit or zone and subarea where it is located, and within on-site and adjacent resource capabilities.

2. Proposals in aquatic subareas judged by administrative officials to have major expected impacts may be required to provide findings establishing that the cumulative effects of all phases of the project are within the resource capabilities of estuarine resources.
3. Federal environmental impact statement or impact assessment may substitute for these requirements if available at the time of development review.

72.080    Development review procedure.

- A. Purpose. This section establishes a process for evaluating development proposals against various qualitative performance standards for certain estuarine and coastal shoreland areas. It is intended to increase predictability in the local decision-making process by informing the developer of the type of information to be provided, how the city or county will make the final decision, of third party technical expertise available, and of specific conditions to bring the proposed development into compliance with standards of this ordinance.
- B. Preapplication conference. The applicant may request a preapplication conference that will be held within ten working days of a request for such conference. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the ordinance and Comprehensive Plan, provide for an exchange of information that will be necessary to demonstrate that applicable standards have been met, to arrange such technical and design assistance as will aid the applicant, to indicate necessary state and/or federal permit requirements, and otherwise identify policies and ordinance requirements that create opportunities or pose constraints for the proposed development.
- C. Application for review.
  1. The property owner or his/her representative may initiate a request for review and approval under this section by filing an application with the City Manager.
  2. Upon receipt of the request, the City Manager shall prepare and deliver to the applicant within five working days a statement of whether the use or activity can be considered within the zoning district, whether it is permitted-with-standards or a conditional use, and if so, the following:
    - a. Specification of the relevant Comprehensive Plan policies, zoning and other ordinance standards and criteria;

- b. Information to be supplied as listed in Section 72.090;
  - c. Relevant state and federal requirements.
3. A completed application shall be accompanied by the following:
- a. Specific information that has been identified as pertinent to the standards to be met by the project relevant portions of Section 72.090);
  - b. A set of findings that demonstrate compliance with the applicable policies and standards (Sections 72.060 and 72.070);
  - c. Maps, photographs, or other descriptive material showing how the siting, design, operation and maintenance chosen by the applicant meets the policies, standards, and requirements.
- D. Public notice. If a public notice is required by the proposal being reviewed, the following procedure will apply:
1. After receiving a completed application, the City Manager shall mail and shall have published a public notice of intent to make a decision on the application. Notice shall include the following:
    - a. Description and location of the proposed development;
    - b. That applicable Comprehensive Plan policies and ordinance standards are available at the planning department;
    - c. That interested parties have 20 days to submit comments and information relevant to the proposed development, giving reasons why the proposed development should not be approved, and preparing modifications necessary for approval;
    - d. Notice that only those parties who comment in writing or testify at a public hearing if required, will receive first class mailed notice of the decision on the proposed development; and
    - e. Notice of the right of the procedure for appeal.
  2. Public notice shall be sent to the following:
    - a. Property owners within 250 feet of the property line of the proposed development;
    - b. State and federal resource agencies with mandates and authorities for planning, permit issuance and resource decision-making, including the following:

- (1) Oregon Department of Fish and Wildlife;
- (2) Oregon Division of State Lands;
- (3) Oregon Department of Land Conservation and Development;
- (4) Oregon Department of Economic Development;
- (5) U.S. Fish and Wildlife Service;
- (6) National Marine Fisheries Service;
- (7) Environmental Protection Agency;
- (8) U.S. Army Corps of Engineers.

- c. Any other person who has requested in writing to receive notice of proposed actions under this ordinance.

#### E. Decision.

1. Within 60 days of receiving a completed application, the Planning Commission shall approve, deny, or modify and approve the application. The decision shall be based on the application and the evidence and comments from interested parties. The decision shall provide findings of fact and conclusions that demonstrate that the applicable standards of Section 72.070 of this code have been met.
2. If the application is denied, the decision of subparagraph 1 above, shall also indicate, to the extent the evidence and data in the application will allow, whether or not the proposed development can be made to comply with the policies and standards in question, and what specific changes in the proposed development would be necessary.
3. The City Manager shall notify the applicant and others entitled to notice of the disposition of the application. The notice shall indicate the effective date of the decision and describe the rights and procedures for appeal pursuant to Sections 156 and 160 of this code.

**72.090** **Technical findings.** Following is a list of the technical information that may be requested to describe the nature of the ecosystem and the expected impacts of a proposed development or restoration project.

At the time of application for development review, Section 72.080, the City Manager will identify specifically which, if any, for the following information will be needed to evaluate the proposal. In most cases, only a portion of this information will be necessary to measure conformance with each standard:

- A. Aquatic life forms and habitat, including information on: habitat type and use (e.g., rearing, spawning, feeding/resting area; migration route), species present, seasonal abundance, sediment type and characteristics, vegetation present. Type of alteration (e.g., area measurement, depths to which alteration will extend, volumes of materials removed and/or placed as fill), impacted species (including threatened or endangered species), life stages and life cycles affected with regard to timing of the proposed alteration.
- B. Shoreland life forms and habitat, including information on: habitat type and use (e.g., feeding, resting or watering areas, flyways), species present, seasonal abundance, soil types and characteristics, vegetation present. Type of alteration, including information detailing the extent of alteration (e.g., area measurement, extent of grading and excavation, removal of riparian vegetation), impacted species (including threatened or endangered species), life stages and life cycles affected with regard to timing of the proposed alteration.
- C. Water quality, including information on: increases in sedimentation and turbidity, decreases in dissolved oxygen concentration, changes in biological and chemical oxygen demand, contaminated sediments, alteration of salinity regime, disruption of natural-occurring water temperatures, changes due to reduction, diversion or impoundment of water.
- D. Hydraulic characteristics, including information on: changes in water circulation patterns, shoaling patterns, potential or erosion or accretion in adjacent areas, changes in the flood plain, decreases in flushing capacity or decreases in rate of water flow from reduction or diversion or impoundment of water sources.
- E. Air quality, including information on: quantities or emissions of particulates, expected inorganic and organic airborne pollutants.
- F. If individual single-purpose docks and piers are involved, the feasibility of using community docks and moorage facilities and other alternatives such as mooring buoys, dryland storage and launching ramps.
- G. If a water-dependent or water-related use in a rural area, alternative shoreland as sites in urban and urbanizable areas.
  - 1. If in a rural area and a use other than water-dependent, water-related, agriculture, forestry or single-family residential on an existing lot, alternative upland locations.

- H. Public need and gain that warrant the proposed action and adverse impacts.
- I. Existing and potential water-dependent use of the site and parcels adjacent to the site.
- J. Potential impacts may include environmental, social and economic impacts resulting from the items listed below.
  - 1. Direct on-site and off-site, cause and effect impacts resulting from the principal development and occurring off-site. For example, changes in estuarine erosion/sedimentation rates and patterns caused by changes in water currents caused by the addition or removal of piling in the estuary.
  - 2. The cumulative phases of multi-phased development, to include mineral exploration and extraction.
  - 3. The secondary, "spin-off" developments that are customarily associated with and follow the principal development. For example, offshore oil and gas exploration and extraction requires onshore facilities such as platform and other equipment manufacturing, boat repair and moorage and housing. As another example, new residential communities in rural areas may spawn various retail commercial developments and new and upgraded transportation systems.
- K. Methods to minimize impacts described in item J., above.

Section 76  
AIRPORT APPROACH (AA) OVERLAY ZONE

Sections:

- 76.010 Purpose.
- 76.020 Compliance.
- 76.030 Special definitions.
- 76.040 Permitted uses within the airport approach safety zone.
- 76.050 Conditional uses within the airport approach safety zone.
- 76.060 Procedures.
- 76.070 Limitations.

76.010 Purpose. This overlay zone, delineated by Airport Imaginary Surfaces, applies to properties inside the city limits and within the airspace surrounding the Brookings State Airport.

76.020 Compliance. In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning district, the more restrictive provision shall apply.

76.030 Special definitions.

- A. Airport imaginary surfaces. Those imaginary areas in space which are defined by the airport approach safety zone, transitional zones, horizontal zones, clear zone and conical surface as described in the Brookings State Airport Masterplan 1980-2000 on page 32 of that document and depicted on the plan and profile following page 32 (and as hereinafter may be amended), and in which any object extending above these imaginary surfaces is an obstruction.
- B. Airport approach safety zone. A fan-shaped area centered on the extended runway centerline and extending 20 feet outward for each foot upward (20:1), 250 feet wide beginning 200 feet beyond the end of and at the same elevation as the runway and extending to horizontal distance of 5,000 feet along the extended runway centerline to a width of 1,250 feet.
- C. Transitional zones. Extended one foot upward for each seven feet outward (7:1) beginning 125 feet on each side of the runway centerline (primary surface) which point is the same elevation as the runway surface, and from the sides of the approach surfaces thus extending upward to a height of 150 feet above the airport elevation (horizontal surface).
- D. Horizontal zone. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.



- E. Clear zone. Extends 1,000 feet along the extended runway centerline from the end of the primary surface at a slope of 20:1 until it reaches a height of 50 feet above the established airport runway end elevations.
- F. Conical surface. Extends one foot upward for each 20 feet outward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the end of the runway at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.
- G. Airport hazard. Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
- H. Place of public assembly. A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.
- I. Noise impact. Noise levels which exceed 55 ldn.

76.040 Permitted uses within the airport approach safety zone. The following uses are permitted:

- A. Farm use, excluding the raising and feeding of animals which would be adversely affected by aircraft passing overhead.
- B. Landscape nursery, cemetery or recreation areas which do not include buildings or structures.
- C. Roadways, parking areas and storage yards 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 areas by a minimum of 15 feet.
- D. Pipeline.
- E. Underground utility wire.
- F. Residential uses, and appurtenant accessory uses and structures, when authorized in the underlying zoning district, provided the land owner signs and records in the deed and mortgage records of Curry County a hold harmless agreement, avigation and hazard easement and noise easement, and submits same to the airport sponsor and city planning department, and also provided that the area is beyond where the 20:1 approach penetrates the horizontal surface at elevation 608 feet.

76.050 Conditional uses within the airport approach safety zone. The following conditional uses may be permitted subject to a conditional use permit:

- A. Commercial and industrial uses, when authorized in the primary zoning district, provided the use does not result in the following:
  - 1. Creating electrical interference with navigational signals or radio communications between the airport and aircraft.
  - 2. Making it difficult for pilots to distinguish 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 number of people.
- B. Buildings and uses of a public works, public service or public utility nature.

76.060 Procedures. An applicant seeking a conditional use under Section 76.050, above, shall follow procedures set forth in the conditional use section of this code. Information accompanying the application shall also include the following:

- A. Property boundary lines as they relate to the airport imaginary surfaces;
- B. Location and height of all existing and proposed buildings, structures, utility lines and roads; and a
- C. Statement from the Oregon Aeronautics Division indicating that the proposed use will not interfere with operation of the landing facility.

76.070 Limitations.

- A. To meet the standards and reporting requirements established in FAA regulations, part 77, no structure shall penetrate into the airport imaginary surfaces as defined above under Section 76.030.
- 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 clear zone.

- D. Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the 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 location within the airport approach safety zone.
- F. In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be 55 Ldn and above, prior to issuance of a building permit for construction of noise sensitive land uses (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 Ldn. The planning and building department will review building permits for noise sensitive developments.

Section 80  
SITE PLAN APPROVAL

Sections:

- 80.010 Purpose.
- 80.020 Site plan committee.
- 80.030 Application.
- 80.040 Improvement standards.
- 80.050 Action of site plan committee.
- 80.060 Appeal.
- 80.070 Revisions.
- 80.080 Issuance of building permits.

80.010 Purpose. The purpose of site plan approval is to establish a review process insuring that new development is in compliance with the objectives and requirements of the Land Development Code in those zoning districts where inappropriate development may cause a conflict between existing or future uses in the same or adjoining zoning district by creating unhealthful or unsafe conditions and thereby adversely affecting the public health, safety and welfare.

80.020 Site plan committee. There is hereby created a site plan committee consisting of the City Manager, Community Development Director, City Engineer, Planning Director, Building Official, or their designees, to carry out the duties set forth in this section. This committee shall have the authority to approve, disapprove or to approve with conditions, the site plans for all proposed new buildings or structures, or the expansion of existing structures in those zoning districts where site plan approval is required. This committee shall also have the authority to review land use applications for completeness pursuant to the submittal requirements of the pertinent section of this code, and to schedule such applications for hearing. In the review of plans, the site plan committee shall be governed by the purpose and objectives set forth in this section. [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

80.030 Application.

- A. Before any building permit and/or development permit shall be issued in any zoning district subject to site plan approval, a site plan for total parcel or development site shall be prepared and submitted to the city, together with the appropriate application form and filing fee established by resolution of the City Council. The site plan shall be drawn to scale and shall indicate the following:
  - 1. Dimensions and orientation of the parcel.
  - 2. Locations of buildings and structures, both existing and proposed.
  - 3. Location and layout of off-street parking and loading facilities.
  - 4. Location of points of entry and exit for motor vehicles, and internal circulation pattern.

5. Location of walls and fences and indication of their height and materials of their construction.
  6. Indications of exterior lighting standards and devices.
  7. Location and size of exterior signs and outdoor advertising.
  8. Location of required landscaping.
  9. Grading and slopes where they affect relationship of the buildings and drainage.
  10. Indications of the height of buildings and structures.
  11. Indication of the proposed use of buildings shown on the site.
  12. Any other architectural or engineering data as may be required to permit necessary findings that the provisions of this section are complied with.
  13. Where an attachment or minor addition to an existing building or structure is proposed, the site plan shall indicate the relationship of said proposal to the existing development but need not include other data required in subsections 1 through 12 of Section 80.030.A.
- B. Within seven (7) working days from the date of submission, the Building Official or Planning Director shall present the application to the Site Plan Committee for determination. The Site Plan Committee shall have ten (10) working days to approve the application or clear it for hearing, determine that more information is needed to complete the application, or deny the application on the grounds that it is inconsistent with the Land Development Code or Comprehensive Plan. Such determination will be made in writing to the applicant if the application is denied or found to be incomplete. If found to be incomplete, the applicant will also be informed as to what additional material is required. Upon clearance from the Site Plan Committee a building permit will be issued or, if required, the application will be scheduled for the next available Planning Commission hearing. [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

**80.040** Improvement standards. The site plan committee in its review of projects subject to the provisions of this section shall apply the following standards and requirements in addition to those listed in Section 172 of this code, where applicable, for site improvements to new developments or expansion of existing developments.

- A. For multiple-family residential development an area equal to at least 50% percent of the gross floor area or living facilities shall be devoted to usable open space recreation areas.

- B. Sight-obscuring landscaping or a landscaped berm, wall or fence shall be placed along a property line where appropriate, and around an unsightly area such as a trash or equipment enclosure or storage area, or an industrial or heavy commercial activity.
- C. Except for portions required for off-street parking, loading or traffic maneuvering, a required setback yard area abutting a street and an open area between the property line and the roadway in the street right-of-way shall be landscaped.
- D. All landscaping shall be maintained by means of an underground irrigation system or other approved alternative.
- E. An access way to an off-street parking area shall be improved from the public roadway to the parking area to a minimum width of 20 feet.
- F. Proposed development in any zone, except the Public Open Space Zone, subject to the provisions of Section 80, which fronts upon an unimproved street shall either be required to improve same to city standards by the installation of curb, gutter pavement and sidewalk on the side abutting the said development, plus 12 feet of pavement beyond the center line, or the owner shall support a future street improvement by executing a deferred improvement agreement which shall run with the land. The City Council, with recommendations from the Site Plan Committee, will determine the extent of needed off-site improvements in regard to the nature of off-site improvements in the Public Open Space Zone on a case by case basis. [As amended by Ordinance No. 93-O-446.P, effective August 10, 1993]
- G. Provide for the undergrounding of utility service lines and facilities.
- H. Provide for the improvement of an existing dedicated alley way which is intended to be used for egress and ingress, or backup space of off-street parking for the development.
- I. Make provision for screening the visibility of roof, wall or ground mounted mechanical equipment and devices, in addition to propane tanks.
- J. Dedicate public street right-of-way, a pedestrian way, or an easement for utilities, a waterway or slope protection.
- K. Provide for the installation of sidewalks.
- L. Requirements for landscaping location and material shall not interfere with solar access which the applicant desires for a building included in the development proposal. Landscaping shall not interfere with solar access to adjacent property.

80.050 Action of the site plan committee. Within ten (10) days after the submission of a complete site plan, the site plan committee shall approve, approve with conditions, or disapprove the site plan. Failure to render a decision within the ten (10) day period shall be deemed approval of the plan as submitted. In approving the plan, the committee shall find that all provisions of this development code are complied with and that all buildings and facilities, access points, parking and loading facilities, signs, lighting, and walls or fences are so arranged that traffic congestion is avoided, and pedestrian and vehicular safety and welfare are protected, and that there will be no adverse effect on surrounding property. The decision of the committee shall be final unless appealed to the Planning Commission.

80.060 Appeals. The applicant or any interested person may appeal a decision of the site plan committee to the Planning Commission in the form prescribed by the city. Such appeal shall be filed with the City Manager or his designee within five (5) days of the decision of the site plan committee. The appeal shall be placed on the agenda of the Planning Commission at their next regular meeting after the date of the filing of the appeal, unless such meeting is within ten (10) days of the receipt of the request, in which case the matter shall be placed on the agenda for the regular meeting next following. The Planning Commission shall review the site plan and shall approve, approve with conditions, or disapprove the plan based upon the considerations listed in Sections 80.040 and 80.050. The Planning Commission shall decide on the appeal within 30 days of the filing, and said filing shall suspend any building permit until the commission has decided the appeal.

80.070 Revisions. Revisions made by the applicant to an approved site plan shall be made pursuant to the procedures set forth in this section. Where required site plan approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction, alteration, improvement or use in any manner except in complete and strict compliance with the approved site plan.

80.080 Issuance of building permits.

- A. If all the required improvements as specified in the conditions of approval of the site plan committee have not been satisfactorily completed prior to issuance of a building permit, as a condition of such issuance, the developer shall enter into a written agreement with the city, specifying all improvements as required by the committee pursuant to Section 80, and a time period within which said improvements shall be completed. The developer shall also warrant the materials and workmanship of said improvements in good condition and repair for an additional period of one year from date of satisfactory completion and notification of same by the city. The agreement shall be approved by the committee and signed by the City Manager or his designee on behalf of the city.
- B. The improvement agreement pursuant to Section 80.080.A shall additionally provide the following:

1. Should the developer/owner fail to complete the listed improvements within the specified time period and/or in accordance with the terms of the agreement, the city may complete the same and recover full cost and expense thereof from the developer/owner.
  2. Reimbursement to the city for all costs of inspection by the City Engineer of all improvements.
  3. Indemnification of the city, its mayor and council members, officers, boards, commissioners and employees from claims of any nature arising or resulting from the performance of any acts required by the city to be done in accordance therewith.
  4. Agreement by the city to accept streets, storm drains, sanitary sewer lines and easements in which they are located at such time as the developer/owner has fully complied with all the terms and conditions of the agreement and has satisfactorily completed the one year warranty period.
- C. The developer/owner shall file with the improvement agreement, to secure full and faithful performance thereof, one, or a combination of the following:
1. A surety bond executed by a surety company authorized to transact business in the state of Oregon.
  2. Cash.
  3. An irrevocable standby letter of credit.



Section 84  
PUBLIC HEARINGS NOTICE PROCEDURES

Sections:

- 84.010 Purpose
- 84.020 Need for a public hearing
- 84.030 Preparation of the Notice of Public Hearing
- 84.040 Quasi-judicial hearings
- 84.050 Legislative hearings
- 84.060 Other

84.010 Purpose. Various land use applications described in this code require a public hearing before the Planning Commission, or both the Planning Commission and the City Council. There are two types of public hearings which may be involved in land use applications or amendments to this code. If the action involves a specific parcel or parcels of land, a quasi-judicial hearing is required. If the action does not involve a specific parcel of land, such as a wording change, the deletion, addition or change in a permitted use or conditional use within a zoning district, the hearing would be a legislative hearing. The Notice of Public Hearing procedure is different for each type of hearing.

84.020 Need for a public hearing. Land use actions involving a Planned Unit Development, Variance, Conditional Use Permit, Land Development Code amendments or Comprehensive Plan amendments, Annexation, Street Vacations, Appeals, Partitions, and Subdivisions require a public hearing before either the Planning Commission only or both the Planning Commission and the City Council. The specific sections of this Code that provide for these actions, indicate whether one or two public hearings are required.

84.030 Preparation of the Notice of Public Hearing. Upon the filing of an application for a land use action, Land Development Code amendment or Comprehensive Plan amendment which requires a public hearing, the City Manager or his designee shall prepare and file with the City Recorder, a notice of public hearing. Said notice shall contain a description of the real property and/or the section of the Land Development Code or Comprehensive Plan which is the subject of the proposed application. The said description shall be sufficient to reasonably identify as to the property which is the subject of the proposed application. The notice shall specify the application requested, the time and place of the public hearing to be held thereon and indicate whether the public hearing shall be held before the Planning Commission or City Council.

84.040 Quasi-judicial hearings. The Notice of Public Hearing for quasi-judicial hearings shall be published in a newspaper of general circulation in the City of Brookings. The notice and a map showing the location of the subject property will also be mailed to all property owners within 250 feet of the subject property. The City Manager may specify a greater mailing radius if deemed appropriate.

- A. If the land use application requires approval of the Planning Commission only, the notice will both appear in the local paper and be mailed at least twenty (20) days prior to the hearing date.
- B. If the application requires approval of both the Planning Commission and the City Council, the notice will both appear in the local paper and be mailed at least ten (10) days prior to each hearing date.

84.050 Legislative hearings. Legislative actions affecting this code or the Comprehensive Plan require a hearing before both the Planning Commission and the City Council. The notice of public hearing for legislative hearings shall be published in a newspaper of general circulation in the City of Brookings at least ten (10) days prior to the date of each hearing.

84.060 Other. In cases where it is not clear whether a quasi-judicial or legislative hearing is required, the quasi-judicial process shall be followed.

[Section 84 as added by Ordinance No. 93-O-446.O, effective June 22, 1993]

Section 88  
SIGN REGULATIONS

Sections:

- 88.010 Purpose.
- 88.020 Definitions.
- 88.030 Application.
- 88.040 Exempt signs.
- 88.050 Signs expressly prohibited.
- 88.060 Residential districts.
- 88.070 Professional office district.
- 88.080 Public open space district.
- 88.090 Neighborhood commercial (C-1) district.
- 88.100 Commercial (C-2, C-3, C-4, C-5) and industrial (M-1, M-2) districts.
- 88.110 Nonconforming signs.
- 88.120 Termination of signs by abandonment.
- 88.130 Appeal and variances.

**88.010 Purpose.** The purpose is to integrate the advertising needs of the business community by means of outdoor signage, with the general safety and aesthetics considerations of the community. Sign criteria and standards can enhance the economic vitality and contribute to the visual quality of the City of Brookings. Well designed and constructed signs attract the eye, complement each other and draw attention to the building containing the businesses for which they are intended to advertise.

**88.020 Definitions.** The following definitions apply to material and subjects addressed specifically within Section 88, Sign Regulations. [Section 88.020 - Definitions, as added by Ordinance No. 95-O-446.AA, effective July 11, 1995]

**ALTER** - Any changes excluding content, and including but not limited to size, shape, method of illumination, position, location, materials, construction, or supporting structure of a sign.

**AWNING** - A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

**BUSINESS** - A commercial or industrial enterprise.

**BUSINESS FRONTAGE** - A lineal front footage of a building or portion thereof devoted to a specific business or enterprise, and having an entrance/exit open to the general public.

**CANOPY** - A non-movable roof-like structure attached to a building.

CONTINUOUS STRING DEVICES - A series of flags, banners, pennants, or other devices designed to move in the wind, that are attached along a string, wire or cable.

FACADE - See Business Frontage.

FREE STANDING SIGN - a sign erected on a frame, mast or pole and not attached to any building.

ILLEGAL SIGN - A sign which is erected in violation of the Brookings Land Development Code, Section 88.

LETTER BOARD - See READER BOARD.

MARQUEE - A non-movable roof-like structure which is self-draining.

NON-CONFORMING SIGN - All signs existing on the effective date of this code and not conforming with the provisions of Section 88.

READER BOARD - A sign with a changeable message by either electronic or manual means.

SIGN - Any notice or advertisement, pictorial or otherwise, including the supporting structure, used as an outdoor display for the purpose of advertising the property or the establishment or enterprise, goods and services.

SIGN, PUBLIC - A sign erected by a public officer or employee in the performance of a public duty which shall include, but not be limited to, motorist, informational signs and warning lights. Signs on public buildings and or giving direction to public facilities.

STREET FRONTAGE - The lineal dimension in feet that the property upon which a structure is built abuts a public street or streets.

WALL GRAPHICS - Include but not limited to any mosaic, mural or painting or graphic art technique or combination or grouping of mosaics, murals, or paintings or graphic art techniques, applied, implanted or placed directly onto a wall or fence.

WIND SIGN OR DEVICE - Any sign or device in the nature of banners, flags, balloons, or other object fastened in such a manner as to move upon being subject to pressure by wind or breeze.

**88.030** Application. For all areas of the city, a sign permit must be obtained before any sign, except those specifically exempted, is erected, placed, painted, constructed, carved or otherwise given public exposure. The sign permit application may be filed as

a part of a larger application or separately. Applications shall be filed with the City Manager or his designee, on an appropriate form in a manner prescribed by the city, accompanied by a sign permit application fee in the amount established by general resolution of the City Council. A sign permit shall be issued only after a determination by the City Manager, or his designee, that the proposed sign is in compliance with all provisions of this section.

The following shall be submitted with each application:

1. Filing fee.
2. Plot drawn to scale, of the lot on which the sign is to be placed showing the location of the sign and the structure or, if free standing, its distance from property lines, and easements.
3. Engineering wind load data for free standing signs.
4. A scale drawing of the sign and its support structure, indicating dimensions, size of letters, lighting and color scheme.
5. Name and address of the property on which the sign will be placed and of the company constructing the sign, if any.
6. If the proposed sign is lighted or uses electricity for any purpose, evidence that the sign is listed as being approved by a licensed testing facility, must be submitted with the application.[Section 88.030 as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]

88.040 Exempt signs. The following signs and devices shall not be subject to the provisions of this section.

- A. Memorial tablets, cornerstones or similar plaques not exceeding six (6) square feet.
- B. Temporary political signs, provided the signs are removed within seven (7) days following the election for which they are intended. (Section 88.040.B as amended by Ordinance No. 00-O-446.HH, effective February 9, 2000.)
- C. Temporary, non-illuminated real estate or construction signs provided that said signs are removed within 15 days from sale, lease or rental of the property, or the completion of the construction project. The following standards shall apply to signs:
  1. One unlighted temporary sign not exceeding eight (8) square feet in area shall be permitted for the lease, rental, or sale of property or for the construction of a structure thereon in residential districts.
  2. One unlighted temporary sign not exceeding 32 square feet in area shall be permitted for the lease, rental, or sale of property or for the construction of a structure thereon in commercial and industrial districts.
  3. One unlighted temporary sign not exceeding twenty (20) square feet in area shall be permitted advertising a new subdivision on the property.

- D. Temporary signs for new businesses, for a period not to exceed 30 days.
- E. Paper signs that serve as a notice of a public meeting that shall be promptly removed after such meeting is held.
- F. Small informational signs related to the operation of a business, such as "open/close" signs, credit card signs, rating or professional association signs, and signs of a similar nature, provided said signs do not exceed three (3) square feet in area per sign, and no more than four (4) in number for any individual business on any parcel of property.
- G. Signs placed by state or federal governments for the purpose of identifying public works projects or publicly funded and/or sponsored projects, designed to fulfill the requirements of state or federal funding agencies.
- H. Temporary signs for events of a general city-wide civic or public benefit.
- I. Nameplates indicating the name, address or profession of the occupant of a building provided it does not exceed 72 square inches.
- J. Public signs, except signs on public buildings which are permitted pursuant to Section 88.070. [As amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]
- K. Businesses which have more than one freestanding sign existing on the effective date of this code. Each sign must meet the size requirements as stated in the code. Signs which advertise a business no longer conducting or a product no longer sold on the premises where such sign is located shall not be exempted under this section.
- L. "WELCOME" flags, when displayed along Chetco Avenue (Highway 101) at the edge of the sidewalk in the holes provided for this purpose and subject to the following:
  - 1. All such flags will be 48" x 30", manufactured of the same material, design and colors.
  - 2. All such flags shall be removed at the close of business of the shop in front of which it is displayed.
  - 3. The design of the flag or any change in the design of the flag shall be approved by the city site plan committee and will apply to all of the flags.
  - 4. The city has the right to have any individual flag removed if it is considered to create a hazard or nuisance.[Subsection L as added by Ordinance No. 01-O-446.KK, effective February 7, 2001]

88.050 Signs expressly prohibited. The following signs and devices are expressly prohibited.

- A. Sandwich board or "A" frame except as provided in Section 88.100.B.4, banners, flags and pennants except as provided in Section 88.100.B.5, portable signs of any nature, continuous string devices, and paper signs except as may be provided in Section 88.040. [Subsection A as amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]
- B. Billboards or off-premise advertising sign, temporary sign, wind sign or device, except as provided in Section 88.030.
- C. Signs which contain any flashing, blinking or moving letters, characters or other elements, nor rotating or otherwise movable signs, except for signs the provide public service messages, such as temperature, time of day, and/or upcoming public events.
- D. Vehicle signs, except for standard advertising identification markings which are permanently or magnetically attached to, or printed on a business or commercial vehicle. [As amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]
- E. The use of a fixed balloon for a period not to exceed 30 days. The term "fixed balloon" shall mean any lighter-than-air device attached by a rope or tether to a fixed place.
- F. In no case shall any sign:
  1. Be animated, audible, rotate or have intermittent or flashing illumination.
  2. Unless otherwise provided, be located within five (5) feet of an interior property line.
  3. Be erected in a public easement or right-of-way, except under the provisions of Section 88.040.L, above. [As amended by Ordinance No. 01-O-446.KK, effective February 7, 2001]
  4. Be erected so as to prevent free ingress to or egress from any door or window, or any other exitway required by the current edition of the Oregon State Structural Specialty Code and Fire and Life Safety Regulations, 1985 edition.
  5. Be attached to any public utility pole, or structure, light pole, lamp, lamp post, tree, fire hydrant, bridge, curb, sidewalk, or other surface located on public property.
  6. Be attached to a standpipe, gutter drain, or fire escape, nor shall any sign be erected so as to impair access to the roof.

7. Be erected in any location where, by reason of its location, will obstruct the view of any authorized traffic sign, signal, or other traffic control device. Nor may any sign, by reason of its shape, position or color, interfere with or be confused with any authorized traffic signal, sign or device. Further, no sign shall be erected in a location where it will obstruct vision of the public right-of-way to the vehicle operator during ingress to, egress from, or while traveling on, said public right-of-way.
8. Be painted on or attached to any wall or fence which is not structurally a part of the building, except to identify a residence or residence structure by means of posting the name of the occupant or structure, and the street address.
9. Operate or employ any stereopticon or motion picture projection or media in conjunction with any advertisements, or have visible moving parts or any portion of which moves, or gives the illusion of motion except as otherwise provided in this code.

**88.060 Residential districts.** Signs in residential districts shall be permitted as follows:

- A. Neighborhood identification. One (1) freestanding sign shall be permitted at each entry point to developments with more than ten (10) lots. Said neighborhood identification sign shall not exceed forty (40) square feet in area per sign, nor exceed five (5) feet in height, subject to Section 88.040, subsection F, line 7. [As amended by Ordinance No. 89-O-454]
- B. Multiple-family residential and conditional uses. Where otherwise permitted, one (1) identifying sign of not more than forty (40) square feet, either attached to the building or freestanding, shall be permitted for multiple-family dwellings containing four (4) or more dwelling units and conditional uses. If freestanding, the sign shall be mounted in a planter or landscaped area and shall not exceed five (5) feet in height, nor shall it be located within ten (10) feet of any property line, subject to Section 88.040, subsection F, line 7. [As amended by Ordinance No. 89-O-454]

**88.070 Professional office (PO-1) district.** Signs in the professional office district shall be permitted as follows:

- A. Professional and business offices and conditional uses. Where otherwise permitted, one (1) identifying sign of not more than forty (40) square feet, affixed to the building or freestanding. If freestanding, the sign shall be mounted in a planter or landscaped area and shall not exceed five (5) feet in height, nor shall it be located within ten (10) feet of any property line. If affixed to the building, the sign may not project into a required yard area more than 18 inches.



- B. One non-illuminated building directory not exceeding ten (10) square feet in area for each building containing medical and dental clinics and laboratories, medical centers, and professional and business offices. Such sign may be freestanding but shall not be located in any required yard area.

88.080 Public open space (P/OS) district. Signs in the public open space district shall be permitted as follows:

- A. Permitted and conditional uses. Where otherwise permitted, one (1) identifying sign of not more than forty (40) square feet in area, either affixed to a building or freestanding. If freestanding, the sign shall not be located within ten (10) feet of any property line and shall not exceed five (5) feet in height, and shall be mounted within a landscaped area or planter. If affixed to a building, the sign may not project into any required yard area more than 18 inches.

88.090 Neighborhood commercial (C-1) district. Signs in the neighborhood commercial district shall be permitted as follows:

- A. One (1) sign not exceeding twenty (20) square feet in area identifying a business on the premises for each street on which the building fronts, either affixed to a building or freestanding. If freestanding, the sign shall be mounted in a planter or landscaped area and shall not exceed five (5) feet in height, nor shall it be located within ten (10) feet of any property line. If affixed to a building, the sign may not project into a required yard area more than 18 inches, nor extend above the roof line of the building.
- B. Signs shall be illuminated only at such times as the business they are intended to identify are open for business.

88.100 Commercial (C-2, C-3, C-4) and industrial (I-P, M-2) districts. [As amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]

- A. In the case of shopping areas which are planned and developed with four (4) or more businesses having common parking areas, one (1) freestanding sign identifying the shopping area only shall be allowed. Such sign shall not exceed 35 feet in height and shall be limited to a total area of 200 square feet. Non-freestanding signs shall be:
1. Placed flat against a building which supports it, and extending not more than 18 inches from said building, or
  2. Attached to the front or bottom surface of a marquee, awning or canopy, and extending no more than six (6) inches past the outer edges of the marquee, awning or canopy.

- B. Other business signs (non-shopping areas as defined above) shall be one (1) or more of the following types:
1. Placed flat against a building which supports it, and extending not more than 18 inches from said building, or
  2. Placed freestanding, provided that only one (1) such sign shall be permitted for each business on the premises, not exceeding 30 feet in height and limited to 75 square feet in total area, plus one (1) square foot of additional sign for each lineal foot of business street frontage exceeding 75 feet, to a maximum sign allowed of 200 square feet. [As amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]
  3. Attached to the front or bottom surface of a marquee, awning or canopy, and extending no more than six (6) inches past the outer edges of the marquee, awning or canopy.
  4. In the C-3 and C-4 zones, a sandwich board sign may be allowed pursuant to review and approval of the Site Plan Committee as established by Section 80 of this code and provided the following conditions are met:
    - a. The business frontage is set back at least three feet from the front facade of the building so as to be less visible from the sidewalk, or
    - b. The entrance to the business is located on the side or rear of the building and not on a street or through walkway.
    - c. Other circumstances that are deemed appropriate by the Site Plan Committee.
    - d. Only one (1) such sign shall be permitted for each building and shall not exceed two (2) feet in width and four (4) feet in height. Each sign must be professional looking and must be kept clean and in good repair. Each sign must be sufficiently weighted at the bottom to prevent toppling by wind. No sign as provided in this section shall project more than two (2) feet from the front facade of the business. Signs shall be displayed only at such times as the business they are intended to identify is open for business. Signs are limited to displaying the business name/logo, "open" and description of the business type.
- (1) Each business requesting a sign pursuant to this section shall submit an application to the city which shall include:
- (i) A drawing of the proposed sign including dimensions.

- (ii) A description of the materials and colors used for construction of the sign.
- (iii) A drawing of the placement of the proposed sign at the business location.

[Section 88.100.B.4 as added by Ordinance No. 95-O-446.AA, effective July 11, 1995]

- 5. Decorative banners and flags, excluding local state or national flags, may be displayed only at such times as the business they are intended to identify is open for business. Banners and flags shall not be displayed if torn, faded, or frayed.

C. The total aggregate area of all signs as provided in Section 88.090, B., above shall not exceed the following:

- 1. On that side of a building facing a street, the total area of signs shall not exceed two (2) square foot for each lineal foot of building frontage.
- 2. On that side of a building not facing a street, the total area of such sign shall not exceed two (2) square feet for each lineal foot of that building side to which the sign is to be attached.

D. Light from a street sign shall be directed away from a residential area and any abutting street.

E. No signs, as provided in Section 88.100 shall project into the public right-of-way to a distance of less than two (2) feet from the face of curb or, in the case where no curb exists, no less than two (2) feet from the edge of pavement, and no such projecting signs shall be installed to a height of less than seven (7) feet six (6) inches clearance from grade thereunder or top of sidewalk to the lowest point of said sign.

**88.110** Nonconforming signs. All signs existing on the effective date of this code and not conforming with the provisions of this section are hereby deemed nonconforming signs except as provided in Section 88.040.

A. No nonconforming sign, except as provided in Section 88.110.B, shall be changed, expanded or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved in whole or in part to any other location where it would remain nonconforming. [As amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]

B. All nonconforming off-premise signs existing on the effective date of this code may remain in use under the following conditions:

1. Until the business for which it advertises has been abandoned in accordance with Section 88.120 below.
2. The sign remains in good operating condition.
3. The sign may be included in a change in the nature of the business within the premise for which it advertises provided that if the change in the nature of the business takes more than 90 days, the city is notified and provided with the expected date of occupancy of the new business.
4. The sign may be repaired and altered to reflect changes in the business for which it advertises except that the repairs and/or alterations shall not increase the size or degree of nonconformity.
5. The sign is not currently, or likely to become, a hazard to traffic, pedestrians or property.
6. The sign cannot be moved to another location where it will remain in a nonconforming status.  
[As amended by Ordinance No. 95-O-446.AA, effective July 11, 1995]

C. Termination of nonconforming signs:

1. Immediate termination. Nonconforming signs which advertise a business no longer conducted or a product no longer sold on the premises where such sign is located shall be terminated within 60 days after the effective date of this code, except as otherwise expressly permitted by this section. Termination of the nonconformity shall consist of removal of the sign or its alteration to eliminate fully all nonconforming features.
2. Termination by damage or destruction. Any nonconforming sign damaged or destroyed by any means, to the extent of one-third (1/3) of its replacement cost new shall be terminated and shall not be restored.
3. Any nonconforming sign not terminated pursuant to any other provision of this code shall be terminated within 10 years following adoption of this code.

88.120 Termination of signs by abandonment.

- A. Any sign advertising or relating to a business on the premises on which it is located, which business is discontinued for a period of 90 consecutive days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and all such signage, whether conforming or nonconforming to the provisions of this code shall be removed within 90 days

thereafter. Any period of such noncontinuance caused by government actions, strikes, materials shortages, or acts of God, and without any contributing fault by the business or user, shall not be considered in calculating the length of discontinuance for purposes of this subsection.

- B. An extension of time for removal of signage of an abandoned business, not to exceed an additional 90 days, may be granted by the City Council upon an appeal filed by the legal owner of the premises or the person in control of the business.

88.130 Appeals and variances. Any applicant or any other interested person who is denied a sign permit because the proposed sign would not be in compliance with all the provisions of this code, or who has an existing sign which would be deemed a nonconforming sign under the provisions of this code, may file for a variance or appeal, pursuant to procedures set forth in Sections 136, 156 and 160.

Section 92  
OFF-STREET PARKING AND LOADING REGULATIONS

Sections:

- 92.010 Generally.
- 92.020 Off-street loading.
- 92.030 Off-street parking.
- 92.040 Number of spaces required.
- 92.050 Joint use of facilities.
- 92.060 More than one use.
- 92.070 Use of parking facilities.
- 92.080 Location of parking facilities.
- 92.090 Parking, front yard.
- 92.100 Design, development and maintenance standards for off-street parking areas.
- 92.110 Handicapped parking.

92.010 Generally. No building, conditional use or other permit shall be issued until plans and evidence is presented to show how the off-street parking and loading requirements are to be fulfilled and that property is and will be available for the exclusive use as off-street parking and loading space. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this section.

92.020 Off-street loading. Every hospital, institution, hotel, commercial or industrial building hereafter erected or established having a gross floor area of 10,000 square feet or more shall provide and maintain at least one (1) off-street loading space plus one (1) additional off-street loading space for each additional 20,000 square feet of gross floor area. Any use requiring one-half or more of a loading space shall be deemed to require the full space. Each loading space shall be not less than ten (10) feet wide, 25 feet in length and 14 feet in height.

92.030 Off-street parking. Off-street parking spaces shall be provided and maintained as set forth in this section for all uses in all zoning districts except that portion of the Central Commercial (C-3) District exempt from these regulations pursuant to Section 52.010 and 52.070. Such off-street parking spaces shall be provided at the time:

- A. A new building is hereafter erected or enlarged.
- B. A building existing on the effective date of this code is enlarged to the extent that the cost of construction exceeds 50% of the market value of the building as shown on the county assessor's records or to the extent that the building's capacity is increased by more than 50% in terms of units listed in Section 92.040 hereof; or,

- C. The use is changed to another use with greater parking requirements, provided that if the enlargement of a building existing at the time hereof is less than 50%, parking space shall be provided in proportion to the increase only.
- D. Any use requiring one-half or more of a parking space shall be deemed to require the full space.
- E. Parking spaces provided to meet the requirements of this section shall not be reduced in size or number to an amount less than required by this code for the use occupying the building. The provision and maintenance of off-street parking space is a continuing obligation of the property owner.

92.040 Number of spaces required. The number of off-street parking spaces required shall be set forth in the following schedule:

<u>Use</u>	<u>Requirement</u>
A. Residential	
1. Single and 2-family dwelling	2 spaces per dwelling unit
2. Multiple-family dwelling containing 3 or more dwelling units	1-1/2 spaces per dwelling unit
3. Rooming or boarding houses; residential hotel	1 space for each accommodation plus 1 additional space per 2 employees
4. Mobile home park	2 spaces per dwelling
B. Commercial-Residential	
1. Recreation vehicle park	1 space per recreation vehicle space
2. Hotel or motel	1 space per guest room or suite plus one additional space for the owner or manager
3. Club; lodge	Spaces to meet the combined requirements of the uses conducted such as hotel, restaurant, auditorium, etc.

## C. Institutions

- |  |   |
|--|---|
| 1. Welfare or correctional institution, convalescent hospital, nursing home, rest home, home for the aged, sanitarium or similar institution | 1 space per 5 beds for residents, patients or inmates |
| 2. Hospital  | 3 spaces per 2 beds                                   |

## D. Places of public assembly

- |  |   |
|--|---|
| 1. Church, auditorium, gymnasium, community center or other place of public assembly | 1 space per 4 seats or 8 feet of bench length in the main auditorium or, if no permanent seats are provided, 1 space per 75 square feet of floor area |
| 2. Library, reading room, museum, art gallery  | 1 space per 400 square feet   |
| 3. Preschool nursery, day nursery or kindergarten supervisor                         | 2 spaces per teacher or adult   |
| 4. Elementary or junior high school  | 2 spaces per classroom and special instruction area   |
| 5. High school   | 8 spaces per classroom and special instruction area, or the requirement for a place of public assembly, whichever is the greater                      |

## E. Commercial amusement

- |  |  |
|--|--|
| 1. Stadium, arena, theater                               | 1 space per 4 seats or 8 feet of bench length                          |
| 2. Bowling lanes   | 6 spaces per lane  |
| 3. Dance hall, skating rink, pool hall or similar indoor | 1 space per 100 square feet of floor area plus 1 space per 2 employees |



## F. Commercial

- |  |   |
|--|---|
| 1. Retail store, except as provided in Section 80.040.F.2.   | 1 space per 400 square feet of retail floor area.   |
| 2. Retail store exclusively handling bulky merchandise such as automobiles, furniture and large appliances, commercial amusement | 1 space per 600 square feet of retail floor area  |
| 3. Service or repair shop  | 1 space per 800 square feet of retail floor area  |
| 4. Bank; office (except medical or dental)   | 1 space per 400 square feet of floor area plus 1 space per 2 employees                              |
| 5. Medical or dental clinic  | 1 space per 200 square feet of floor area plus 1 space per 2 employees                              |
| 6. Eating or drinking establishment  | 1 space per 4 seats or 1 space per 100 square feet of dining or drinking area, whichever is greater |
| 7. Mortuary  | 1 space per 4 seats or 8 feet of bench length in chapels  |
| 8. Open air market; used car sales lot   | 1 space per 1,500 square feet of land area  |

## G. Industrial

- |   |  |
|---|--|
| 1. Storage warehouse; air, rail or trucking freight terminals | 1 space per employee on maximum shift  |
| 2. Wholesale establishments                                   | 1 space per employee plus 1 space per 700 square feet of patron serving area |

H. Other uses not specifically listed above shall furnish parking as required by the Planning Commission. In determining the off-street parking requirements for said uses, the commission shall use the above requirements as a general guide, and shall determine the minimum number of parking spaces required to avoid undue interference with the public use of streets and alleys.

92.050 Joint use of facilities. The off-street parking requirements of two (2) or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown to the Planning Commission by the owners or operators of the use, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

92.060 More than one use. Where more than one use is included within any one building or on any single parcel, the parking requirements shall be the sum total of the requirements of the various uses, provided, however, where the operation of these different uses is such that the hours of operation or uses complement each other insofar as the parking demand is concerned, the Planning Commission may authorize a reduction in these requirements. If the Planning Commission finds that a portion of the floor area, not less than 100 contiguous square feet, in a retail store will be used exclusively for storage of merchandise which is not being displayed for sale, it may deduct such space in computing parking requirements, but the owner shall not thereafter use the space for any other purpose without furnishing additional off-street parking as required by this section.

92.070 Use of parking facilities. Areas needed to meet the parking requirements of a particular building or use shall not be transformed or changed to another type of use, or transferred to meet the parking requirements of another building or use until the parking required for the original user of said parking area is provided at another location. Required parking space shall be available for the parking of operable passenger vehicles or materials, or for the parking of trucks used in the conduct of the business or use.

92.080 Location of parking facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or on another parcel not further than 100 feet from the building or use they are intended to serve, measured in a straight line from the building. The burden of providing the existence of such off-premise parking arrangement rests upon the person who has the responsibility of providing parking.

92.090 Parking, front yard. Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard, except in the case of single-family and duplex dwellings, but such space may be located within a required side or rear yard.

92.100 Development and maintenance standards for off-street parking areas.

- A. Access. Except for single-family and duplex dwellings, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street or right-of-way other than an alley.
- B. Screening. An off-street parking area for more than five (5) vehicles shall be effectively screened by a sight-obscuring fence, hedge or planting on each side which adjoins property situated in an "R" district or the premises of any school.
- C. Lighting. Any lighting used to illuminate the off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in an "R" district.
- D. Surfacing. Areas used for standing and maneuvering of vehicles shall have permanent, dust-free, asphaltic or portland cement concrete surfaces maintained adequately for all weather use and adequately drained so as to avoid flow of water across sidewalks, and constructed to support use by solid waste vehicles and fire-fighting apparatus.
- E. Vision clearance. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line adjoining said lines through points 20 feet from their intersection.
- F. Curbing and wheel stops. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or a bumper rail so placed to prevent a motor vehicle from extending over an adjacent property, or a street or sidewalk. Wheel stops shall be a minimum of four (4) inches in height and width, and six (6) feet in length; shall be firmly attached to the ground, and so constructed as to withstand normal wear. Wheel stops shall be provided where appropriate for all spaces abutting property lines, buildings, landscaping, and no vehicle shall overhang a public right-of-way.
- G. Marking. All spaces shall be permanently and clearly marked, and such marking shall be replaced regularly, to remain visible.
- H. Landscaping. In all zones except SR, R-1, and R-2 zones, all parking facilities shall include landscaping to cover not less than seven (7) percent of the area devoted to outdoor parking facilities, including any landscaping required in subsection B of Section 92.100. Said landscaping shall be uniformly distributed throughout the parking area, be provided with irrigation facilities and protective curbs or raised wood headers. It may consist of trees, plus shrubs, groundcover or related plant material.

- I. Parking layout and design criteria. All required parking areas shall be designed in accordance with the following parking layout chart. All parking spaces shall be a minimum of nine (9) feet by 20 feet and shall have a minimum 24-foot backup space except where parking is angled.

ADD PARKING LAYOUT CHART

92.110 Handicapped parking.

A. Handicapped parking shall be provided at the following rate:

Total Parking In Lot	Minimum Required ADA Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1000 and above	20 plus 1 for each 100 over 1000

B. Parking spaces.. Handicapped parking spaces shall be a minimum of nine (9) feet in width and shall have an adjacent access aisle of six (6) feet in width. A minimum of one and a ratio of one "Van" space for each eight required accessible spaces shall be provided. A "Van" space shall be a minimum of nine (9) feet wide with an adjacent access aisle of eight (8) feet. Parking access aisles shall be a part of the accessible route to the building or facility entrance. Two (2) parking spaces for handicapped may share a common access aisle.

[As amended by Ordinance No. O3-O-446.QQ, effective November 12, 2003]

Section 100  
HAZARDOUS BUILDING SITE PROTECTION  
HILLSIDE DEVELOPMENT STANDARDS

Sections:

- 100.010 Purpose.
- 100.020 Review by City Manager or Planning Commission.
- 100.030 Partitions and Subdivisions (as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
- 100.040 Site study authorization.
- 100.050 Site preparation.
- 100.060 Enforcement.
- 100.070 Final maps.

100.010 Purpose.

- A. The purpose of this section is to reduce building site hazards and threats to life and property created by flooding, landslides, weak foundation soils and other hazards as may be identified by the City of Brookings or other agencies. This section is intended to advance the above purpose to protect life and property:
  - 1. By requiring the study of such areas by a qualified person prior to construction.
  - 2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion or sediment deposition during construction.
  - 3. By establishing mechanisms for enforcement to insure compliance with this code. (Section 100.010.A, as amended by Ordinance No. 99-O-446.FF, effective June 9, 1999)
- B. The policies and standards of this section are based upon the data contained in the Comprehensive Plan document and other technical information.

100.020 Review by City Manager or Planning Commission.

- A. The City Manager or a qualified designee, shall review all planning permit requests for conformance with the standards and criteria of this section.
- B. The City Manager or a qualified designee shall review requests for building permits or grading permits, and the Planning Commission shall review land use applications proposed within areas identified as having average slopes of greater than 15% grade.
- C. The City Manager or a qualified designee may refer matters to the Planning Commission which require the use of standards. (Section 100.020.C as amended by Ordinance 99-O-446.FF, effective June 9, 1999)

- D. The Planning Commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in Sections 100.030, 100.040 and 100.050. Planning Commission decisions may be appealed to the City Council as provided in Section 156.

100.030 Partitions and subdivisions. When dividing land within the SR-20 and SR-40 zones or when dividing other land with slopes of greater than 15%, a geological report prepared by a certified engineering geologist or a civil engineer registered in the State of Oregon consulting with a certified engineering geologist, shall be required.

- A. The geological report shall contain the following information:
1. The stability of the slopes and their suitability for the proposed type of construction in relation to the size of lot proposed, including all existing and proposed new streets.
  2. The need for engineered foundations or for site specific studies to determine if engineered foundations are necessary.
  3. Any other information pertaining to the suitability of the site in relation to the proposed use.
- B. On lands that contain slopes of greater than 15%, all lots will be of the minimum lot size allowed by underlying zone, except larger lots may be required if the geological survey of the property requires a larger lot to avoid hazardous areas or other conditions. (Section 100.030 as amended in its entirety by Ordinance 95-O-446.FF, effective June 9, 1999.)

100.040 Site study authorization.

- A. The City Manager or a qualified designee may require a site study by a certified engineering geologist, civil engineer registered in the State of Oregon and/or other qualified person prior to issuance of a building or grading permit or the approval of a partition plat, subdivision plat, or conditional use permit, in areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard. Site studies may also be required for construction or excavation in areas of steep slope, where, in the opinion of the City Manager or a qualified designee, there is a potential hazard to the proposed structure(s) or to any adjacent property.  
(Section 100.040.A as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
- B. Site specific studies may be required by the City Manager or a qualified designee, or the Planning Commission for construction or development of

property containing weak or unstable foundation soils or other geologic factors as determined by the soils or geology engineering geology report. Site reports shall include bearing capacity of the soil, soil stability, pertinent geological formations, adequacy and method of drainage facilities, and soil compaction and other requirements necessary for stability prior to construction. Location and characteristics of weak foundation soils and geologic formations shall be updated as information becomes available.

100.050 Site preparation

- A. No property shall be disturbed, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any erosional or depositional material to be pushed onto, deposited upon or gravitated to the property of another.
- B. Prior to any site preparation on an existing lot, or on an approved but unrecorded minor or major partition or subdivision, on slopes greater than 15% grade, the applicant shall submit grading plans prepared by an Oregon licensed civil engineer showing the following information for approval of the City Engineer:
  - 1. All cut and fill slopes associated with new or improved roads, driveways and building pads and methods of fill compaction.
  - 2. All utility grading including the placement of electrical, television and telephone cables.
  - 3. Areas of the site to be denuded of vegetation cover.
  - 4. Mitigation measures including erosion control, permanent planting and an implementation time table. The implementation time table shall be approved by the City Engineer and/or City Manager in regard to the season(s) in which construction will occur.
  - 5. A drainage plan to control water runoff during construction.
- C. All vegetation removal and grading on an existing lot, or on an approved but unrecorded minor or major partition or subdivision on slopes greater than 15% grade shall be carried out as per approved grading plans and under the supervision of the project engineer.
- D. Erosion and sedimentation caused by storm water runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the City Manager or a qualified designee:
  - 1. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access, shall be done. Removal of



trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

2. Temporary measures for controlling runoff, such as berms, holding ponds, terraces and ditches shall be used as required, particularly in areas having slopes of 15% or greater.
  3. Exposed areas shall be mulched and kept covered during construction to eliminate dust, mud, erosion or sedimentation, and shall be planted in permanent cover within thirty (30) days or as per the approved grading plan of Section 100.050.B.
- E. For a structure, driveway, parking area or other impervious surfaces in areas of 15% slope and greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities as specified by the project engineer and approved by the City Engineer or other qualified designee. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Storm water shall be directed into drainage with capacity to be calculated in accordance with the City's Comprehensive Plan for Storm Drainage Development, so as not to flood adjacent or downstream property.
- F. In all areas of the city, the City Manager or a qualified designee may require culverts or other drainage facilities, designed in accordance with the City's Comprehensive Plan for Storm Drainage Development, be installed as a condition of construction.
- G. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary will require special impact mitigation measures.
- H. Filling of lowlands shall be done only where it is determined that the fill will not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed.

#### 100.060 Enforcement

- A. The construction, location, development or use of land or structures, contrary to the provisions of this section, ordinance or permit, or in violation of any conditions or limitations approved pursuant to this ordinance, is an unlawful public nuisance.
- B. In addition to other remedies set forth in Section 164, and other remedies provided by ordinance or under state law, the city may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

- C. If the City Manager determines that a violation of this section has occurred, the city shall notify the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who has participated in committing the violation, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the city, the City may seek an injunction to stop further development until the violation has been remedied.
- D. If the City Manager determines that a violation has occurred, the City shall give written notice to the owner of the land, and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the city will cause the city to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the City to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the City Recorder is authorized to enter the amount of such charges immediately in the docket of city liens.
- E. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this ordinance, shall be guilty of a violation of this ordinance and shall be subject upon conviction to a fine of not more than \$200. Each day under which a violation exists shall be considered a separate offense.
- F. The remedies set forth in this section are cumulative and not exhaustive of all remedies the City may exercise to prevent, correct or abate a violation under this section.

100.070 Final subdivision maps. In the case of a land use activity that requires the recordation of a final map such as a minor partition, major partition or subdivision, recordation of the map will not be allowed until the city is satisfied that the provisions of this section and other applicable provisions of the Land Development Code have been met. Evidence of compliance must be included within the application for final map approval and submitted thirty days prior to the expected hearing date.

[Section 100 as amended in its entirety by Ordinance No. 94-O-446.V, effective August 9, 1994]

Section 104  
HOME OCCUPATIONS

Sections:

- 104.010 Purpose and scope.
- 104.020 Permit required.
- 104.030 Criteria.
- 104.040 Exclusions.
- 104.050 Revocation.
- 104.060 Appeal.
- 104.070 Existing uses.

104.010 Purpose and scope. The intent of the home occupation permit for residential zones is to provide for a limited service-oriented business activity which is conducted in such a manner that the residential character of the building and the neighborhood is preserved. "Home occupation" means any gainful occupation engaged in by an occupant of a dwelling unit, including handicrafts, dressmaking, millinery, laundering, preserving, office of clergyman, bookkeeping, teaching of music, dancing and other instruction when limited to attendance of one (1) pupil at a time, and other like occupations. The permit shall not be transferable and the privileges it grants shall be limited to the person named in the permit and to the location and activity for which it is issued.

104.020 Permit required. The City Manager or his designee, shall issue a home occupation permit only if it is found that all of the following criteria are and will be met by the individual applicant. The permit may include conditions setting an expiration date, requiring periodic review and renewal, requiring the applicant to sign an acknowledgement of the conditions, or other conditions specifically dealing with the property use involved, where such conditions are found to be reasonably necessary to maintain the criteria herein listed.

104.030 Criteria. The home occupation proposal must conform to the following standards and criteria:

- A. The activity must be conducted entirely within the dwelling in question or attached garage.
- B. The activity must be conducted only by members of the family or persons residing in the dwelling.
- C. The outward residential appearance of all buildings must be preserved, and the use is clearly incidental and secondary to the use of the dwelling for residential purposes.
- D. Not more than 25 percent of the floor area of any floor of the individual dwelling unit may be utilized for the intended purposes.

- E. No merchandising or sale of commodities may be conducted on the premises, except such as is produced by the occupants on the premises.
- F. The entrance to the space devoted to such use is from within the building and no internal or external alterations or construction features not customary in dwellings are involved.
- G. A sign may be maintained in conjunction with the home occupation activity, provided it is no greater than one (1) square foot in area and placed flat against the building containing the activity.
- H. No increase in traffic may be generated other than that attributed to normal residential usage, and the use requires no additional parking space.
- I. There shall be no emission of odorous, toxic, noxious matter nor any use causing electrical or telecommunication interference, vibration, noise, heat or glare in such quantities as to be readily detectible at any point along or outside property lines of a home occupation so as to produce a public nuisance or hazard. If the permit is granted, the foregoing shall be deemed conditions of the permit.

104.040 Exclusions. Home occupation permits shall not be issued for any of the following:

- A. Beauty shops.
- B. Barber shops.
- C. Pet grooming.
- D. Photo studios.

104.050 Revocation. The permit may be revoked by the City Manager or his designee for a violation of any conditions listed in Sections 104.030, but the City Manager or his designee, before a permit is revoked, shall give the permittee reasonable notice in writing of intent to revoke, list the reasons for revocation and advise the permittee of remedies and appeal process from the administrative decision.

104.060 Appeal. Any applicant, or affected property owner or resident has the right to appeal the administrative decision of the City Manager or his designee, to the planning commission in a manner as provided in Sections 160 of this code.

104.070 Existing uses. Persons engaged in home occupations lawfully in existence on residentially owned premises on the effective date of this code adoption, may continue to thus operate but shall be required to secure a permit hereunder, and any such

activity, use or accessory sign, device or structure, or part thereof, which does not conform to this section shall not be permitted to expand or enlarge and shall be removed or terminated upon the following:

- A. Change of use or ownership of the premises.
- B. Written complaint of adjacent property owners, after due notice and hearing if the planning commission finds that the interference with the use and enjoyment of the neighboring premises is such as to defeat the purposes of this section.

Section 112  
REAR LOT DEVELOPMENT

Sections:

- 112.010 Purpose.
- 112.020 Eligibility.
- 112.030 Development standards.

112.010 Purpose. The purpose of this section is to permit development of lots in residential areas which cannot be subdivided or partitioned pursuant to the other provisions of this code. No lots or other large parcels of land may be developed under this section if the property is physically capable of being subdivided or partitioned, either separately or in conjunction with adjacent properties in the same ownership, under the terms of this code. Any property proposed to be developed under this section shall comply with all of the following eligibility and development requirements. [As amended by Ordinance 98-O-446.DD, effective September 9, 1998]

112.020 Eligibility. The following criteria must be met before a lot is eligible to be developed under the provisions of this section.

- A. Property must be less than four (4) acres in area.
- B. Property must be situated and dimensioned in a manner that subdivision or partition under the terms of other applicable sections of this code is not possible, either individually or in conjunction with other adjacent property in the same ownership. [As amended by Ordinance 98-O-446.DD, effective September 9, 1998]
- C. Minimum area. Twice that required by the underlying zoning district and not including the area necessary for the access way.
- D. Minimum width. Fifteen (15) feet greater than required by the applicable zoning district.

112.030 Development standards. Provided the eligibility requirements are met, a permit may be issued subject to the following standards and criteria:

- A. Front parcel.
  - 1. Minimum lot width. The same as required by the applicable zoning district.
  - 2. Minimum lot depth. 75 feet.
  - 3. Setback requirements. Same as required in the applicable zoning district.
- B. Rear parcel.
  - 1. Access way minimum width. Fifteen (15) feet.

2. Setback requirements. No building shall be erected within ten (10) feet of any property line.
  3. Minimum lot size. Same as required by the applicable zoning district, not including the area of the access way.
  4. Maximum length of access way. 200 feet.
  5. Access way shall be conveyed with ownership of the rear lot and shall be an integral part of the rear lot.
  6. Access way shall be improved to a permanent, dust-free surface of asphaltic concrete or Portland cement.
- C. The development of the property pursuant to the rear lot development standards shall be in accordance with Section 176.050 and other applicable sections of this code.
- D. No more than one (1) parcel or lot shall be created to the rear of another parcel or lot which fronts on a street in a residential district.

[Section 112 as amended by Ordinance No. 90-O-446.B, effective September 11, 1990]

Section 116  
PLANNED UNIT DEVELOPMENT APPROVAL

Sections:

- 116.010 Purpose.
- 116.020 Planning Commission approval required.
- 116.030 General requirements.
- 116.040 Application.
- 116.050 Public hearing optional with Planning Commission.
- 116.060 Standards for approval.
- 116.070 Planning Commission action.
- 116.080 Variations to be authorized.
- 116.090 Exception to subdivision regulations.
- 116.100 Violation of conditions.
- 116.110 Minor Change.
- 116.120 Mapping.

116.010 Purpose. The purpose of planned unit development approval is to allow and to make possible greater variety and diversification in the relationships between buildings and open spaces in planned building groups, while ensuring compliance with the purposes and objectives of the various zoning district regulations and the intent and purpose of these land development sections. These provisions are intended to allow developers the freedom to design and construct projects whose objectives could be inhibited by strictly applying the provisions of this code, thereby providing more harmony with site conditions, aesthetics, economy and similar considerations than might otherwise be possible. The use of these provisions is dependent upon the submission of a complete and acceptable conceptual masterplan accompanied by satisfactory assurances it will be carried out. Such conceptual, preliminary masterplan shall conform to and be in compliance with the goals and objectives of the Comprehensive Plan.

116.020 Planning Commission approval required. Where use is made of the planned unit development process as provided in this section, no building or other permit shall be issued for such development or part thereof until the Planning Commission has approved said development.

116.030 General requirements.

- A. A planned unit development application shall be for an area of not less than four (4) contiguous acres of residentially zoned property.
- B. No application shall be accepted for a use which will require a redesignation of the Comprehensive Plan map or a change of zoning district, unless said application is accompanied by an application for an amendment as set forth in section 144. Such planned development application shall not be used to justify or create unauthorized uses within the underlying zoning classification, or by excluding uses otherwise permitted therein.



- C. Requirements pertaining to area, density, yards or similar dimensions, standards and criteria of the underlying zoning classification within which the proposed planned unit development is to be situated, shall be used as a guide in determining the proposal's compliance with the purposes and intent of the Land Development Code.
- D. No planned unit development shall be approved in any "R" district if the housing density of the proposed development will result in an intensity of land use greater than that permitted in the "R" district. For this purpose, maximum density is calculated by dividing the total gross area of the development by the minimum lot area per dwelling unit prescribed for the zone.

116.040 Application. The owner or his authorized agent may make application for planned unit development approval by filing an application with and on forms provided by the planning department. The application shall be accompanied by the following:

- A. A filing fee in an amount established by general resolution of the City Council. No part of the filing fee is refundable.
- B. An applicant shall submit an application form, appropriate fees, and seven (7) copies of a preliminary site plan for review by the Site Plan Committee pursuant to Section 80.030,B. When cleared by the Committee, the application will be scheduled for the next available Planning Commission hearing. The preliminary site plan shall be drawn to scale and include, but not limited to, the following information: [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]
  - 1. Proposed use, location, dimensions, height, and type of construction of all buildings. Proposed number of dwelling units, if any, to be located in each building.
  - 2. Proposed circulation pattern including the location, width, and surfacing of streets, private drives, and sidewalks and/or pedestrian ways; the location of any curbs; the status of street ownership; and the location of parking areas and the number of spaces therein.
  - 3. Proposed use of all open spaces including a plan for landscaping.
  - 4. Proposed grading and drainage pattern.
  - 5. Proposed method and plan for provision of water supply and fire hydrants, sewerage disposal, electrical facilities, solid waste disposal and street lights.

6. Drawings and sketches demonstrating the design and character of the proposed uses and the physical relationships of the uses to the surrounding area.
7. Such other pertinent information shall be included as may be considered necessary by the Planning Commission to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this code.

116.050 Public hearing optional with Planning Commission. No public hearing need be held if no Comprehensive Plan map redesignation, zoning amendment or conditional use is required; provided, however, that a hearing may be held by the Planning Commission when it deems such hearings to be necessary in the public interest. Such hearing, if required or determined by the Planning Commission to be necessary, shall be held as set forth in Section 84.

116.060 Standards for approval. In granting approval for a planned unit development, the Planning Commission shall seek to determine, based upon evidence, both factual and supportive provided by the applicant, that:

- A. The applicant has, through investigation, planning and programming, demonstrated the soundness of his proposal and his ability to carry out the project as proposed, and that the construction shall begin within 12 months of the conclusion of any necessary actions by the city, or within such longer period of time as may be established by the Planning Commission.
- B. The proposal conforms with the Comprehensive Plan and implementing measures of the city in terms of goals, policies, location and general development standards.
- C. The project will assure benefits to the city and the general public in terms of need, convenience, service and appearance sufficient to justify any necessary exceptions to the regulations of the zoning district.
- D. There are special physical conditions or objectives of development which the proposal will satisfy so that a departure from standard zoning district regulations can be warranted.
- E. That the project will be compatible with adjacent developments and will not adversely affect the character of the area.
- F. The project will satisfactorily take care of the traffic it generates, both on and off-site, by means of adequate off-street parking, access points, and additional street right-of-way improvements.

- G. That the proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create major problems or impacts outside the boundaries of the proposed development site.

116.070 Planning Commission action.

- A. The Planning Commission may continue a public hearing in order to obtain more information or to serve further notice.
- B. The Planning Commission shall act upon the application within 90 days, excluding such time as may be required to complete any necessary zoning or Comprehensive Plan map amendment. In taking action, the commission may approve, approve with conditions or deny an application as submitted. Any planned unit development as authorized shall be subject to all conditions imposed, and shall be excepted from the other provisions of this code only to the extent specified in said authorization.
- C. Any approval of a planned unit development granted hereunder shall lapse and become void if, within 12 months after the final granting of approval, or within such other period of time as may be stipulated by the Planning Commission as a condition of such approval, construction of the buildings or structures involved in the development has not been commenced and diligently pursued. The Planning Commission may further impose other conditions limiting the time within which the development or portions thereof must be completed.
- D. In approving the conceptual, preliminary masterplan for the planned unit development, the Planning Commission may attach conditions it finds necessary to carry out the purposes of this section. These conditions may include, but are not limited to the following:
1. Increasing the required setbacks.
  2. Limiting the height of buildings.
  3. Controlling the location and number of vehicular access points.
  4. Establishing new streets, increasing the right-of-way or roadway width of existing streets, and in general, improving the traffic circulation system.
  5. Increasing the number of parking spaces.
  6. Limiting the number, size, location, and lighting of signs.
  7. Designating sites for open space and recreational development.
  8. Requiring additional fencing, screening, and landscaping.

9. Requiring performance bonds to assure that the development is completed as approved within the time limit as established by the Planning Commission.
  10. Requiring that a contractual agreement be established with the city to assure development of streets, curbs, gutters, sidewalks, and water and sewer facilities to city standards.
- E. The decision of the Planning Commission shall be final unless appealed to the City Council according to the procedures set forth in Section 156.

116.080 Variations to be authorized. The Planning Commission may authorize standards of site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, off-street parking and off-street loading facilities and landscaped areas not equivalent to the standards prescribed within the regulations for the district within which the planned unit development is located, if the applicant has demonstrated, by his design proposal, that the objectives of the land development regulations and of this section will be achieved.

116.090 Exception to subdivision regulations. When a planned unit development involves design proposals which would also necessitate the granting of exceptions to the land division regulations, the Planning Commission may grant tentative approval of the proposal subject to the condition that final approval may not be granted until the applicant submits and receives approval of a tentative subdivision map in the manner prescribed by the land division regulations.

116.100 Violation of conditions. The Planning Commission on its own motion may revoke any planned unit development approval for noncompliance with the conditions set forth in the order granting the said approval, after first holding a public hearing and giving notice of such hearing as provided in Sections 132.050 through 132.070. The foregoing shall not be the exclusive remedy, and it shall be unlawful and an offense punishable hereunder for any person to construct any improvement in violation of any condition imposed by the order granting the planned unit development approval.

116.110 Minor Change. The applicant may apply to the Planning Commission for a minor change to the site plan and/or conditions of approval of an approved planned unit development. The Planning Commission will hold a public hearing to consider the nature of the requested change, impacts the change may have on surrounding properties and/or on the remaining portion of the project and the impact on the city's services and facilities. The Commission may approve or deny the minor change. If the change is approved it may be incorporated into the project. If it is denied the project remains as originally approved and the change cannot be incorporated. Applications for a minor change must be submitted with the following:

- A. A filing fee in an amount established by general resolution of the City Council. No part of the fee is refundable.

- B. A site plan or revised subdivision map showing the proposed changes and how they compare to the originally approved project. If the change does not include the physical site plan of the project, a text explaining the desired change must be submitted.
- C. A statement explaining how the proposed change relates to the approved project and any impacts it may have on the project and/or adjoining property holders and city services and facilities.

[Section 116.110 as added by Ordinance No. 92-O-446.J, effective April 7, 1992]

116.120 Mapping. Within 30 days after the granting of a planned unit development permit, the symbol "PD" shall be indicated on the zoning map, in addition to the existing zoning designation, on the lot or lots affected by such permit.

Section 120  
NONCONFORMING USES

Sections:

- 120.010 Continuation of nonconforming uses.
- 120.020 Change of nonconforming use.
- 120.030 Discontinuance of nonconforming use.
- 120.040 Destruction of nonconforming use or structure.
- 120.050 Completion of structure.
- 120.060 Enlargement or alteration of a nonconforming structure.
- 120.070 Pre-existing limited use permit or variance.

120.010 Continuation of nonconforming use. A use lawfully occupying a structure or site on the effective date of this code or of amendments thereto, which does not conform to the regulations for the district in which it is located, shall be deemed to be a nonconforming use and may be continued, subject to the following regulations:

- A. Routine maintenance and repairs may be performed on structures or sites, the use of which is nonconforming.
- B. No structure, the use of which is nonconforming, shall be moved, altered, or enlarged unless required by law or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use.
- C. No structure partially occupied by a nonconforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use.

120.020 Change of nonconforming use. The Planning Commission may grant an application for a change of use, filed in accordance with the provisions of Section 140, conditional use permits, if, on the basis of the application and the evidence submitted, they make the following findings:

- A. That the proposed use is classified in a more restrictive category than the existing or pre-existing use by the district regulations of this code. The classifications of the nonconforming use shall be determined on the basis of the district in which it is first permitted, provided that a conditional use shall be deemed to be in a less restrictive district than a permitted use in the same district.
- B. That the proposed use will not more adversely affect the character of the district in which it is proposed to be located than the existing or pre-existing use.

- C. That the change of use will not result in the enlargement of the space occupied by a nonconforming use, except that a nonconforming use of a building may be extended throughout those parts of a building which were designed or arranged for such use prior to the date when such use of the building became nonconforming, provided that no structural alterations except those required by law are made.

120.030 Discontinuance of a nonconforming use. If a nonconforming use has been changed to a conforming use, or if the nonconforming use of a building, structure or premises is discontinued for the time period specified below, the said use shall be considered abandoned, and said building, structure or premises shall thereafter be used only for uses permitted as a matter of right or as conditional uses in the district in which it is located.

- A. Residential uses in a Commercial Zoning District: Two (2) years unless the building has been altered to the point that it is no longer suitable as a residence.
- B. All other uses: Six (6) months.

[As amended by Ordinance No. 90-O-446.B]

120.040 Destruction of nonconforming use or structure. If a nonconforming residential structure is destroyed to any extent, by any cause beyond the owners control, it may be rebuilt or replaced by a residential structure that is no larger than the original structure. In all other cases if the structure is destroyed in excess of 50 percent of its assessed value as determined by the records of the county assessor for the year preceding destruction, a future structure or use on the property shall conform to the regulations for the district in which it is located. [As amended by Ordinance No. 90-O-446.B]

120.050 Completion of structure. Nothing contained in this code shall require any change in the plans, construction, alteration or designated use of a structure for which a valid permit exists prior to the adoption of this code and subsequent amendments thereto, except that if the designated use will be nonconforming it shall, for the purposes of Section 120.030, be a discontinued use if not operational within two (2) years of the date of issuance of the building permit.

120.060 Enlargement or alteration of a nonconforming structure. If a building or structure, in existence on the effective date of any yard, location, or coverage restriction imposed by this code, fails to comply with such restriction, such building or structure may be enlarged or altered to the extent that such alteration or enlargement does not itself encroach upon a required yard or violate a location restriction or so increase the area of the building or structure that it violates the coverage restriction; but this right shall be subject to all other restrictions contained in this code.

120.070 Pre-existing limited use permit or variance. A use which was lawful by reason of a limited use permit or variance may be conducted only on the terms of the original permit variance granted and subject to all limitations under which the permit for variance was awarded.

Section 124  
PROVISIONS APPLYING TO SPECIAL USES

Sections:

- 124.010 Day care, nursery schools and kindergartens.
- 124.020 Commercial excavation - removal of earth products.
- 124.030 Utilities.
- 124.040 Poultry farms and eggeries.
- 124.050 Stables and paddocks, private.
- 124.060 Furniture and appliance businesses, outside storage and display.
- 124.070 Kennels, riding academies and public stables. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]
- 124.080 Animal hospitals and veterinary clinics.
- 124.090 Cemetery, crematory, mausoleum, columbarium.
- 124.100 Churches, hospitals and other religious or eleemosynary institutions.
- 124.110 Circuses, carnivals, animal rides, animal displays, amusement rides.
- 124.120 Community buildings, social halls, lodges, fraternal organizations, and clubs in an "R" district.
- 124.130 Drive-in theaters.
- 124.140 Bed and breakfast facilities.
- 124.150 Recreation vehicle parks.
- 124.160 Mobile home parks.
- 124.170 Short Term Rentals [As added by Ordinance No. 01-O-446.MM, effective January 17, 2002]

124.010 Day care, nursery schools and kindergartens.

- A. Facilities for thirteen (13) or more children are subject to these provisions, the provisions of Section 140 CONDITIONAL USE PERMITS, and all regulations and requirements of the Child Services Division. All pre-school children residing in the dwelling which also serves as a day care or nursery facility shall be counted in the total number of children in such facility for purposes of calculating the category of such facility. [As amended by Ordinance No. 92-O-446.H, Effective March 10, 1992]
- B. Day care, nursery school and kindergarten facilities located in any residential zone shall have a minimum site size of 10,000 square feet. Day care, nursery school and kindergarten facilities located in the C-3 Zone shall be located on lots of sufficient size to provide for required buildings, parking, pickup and drop off area, and outdoor play area. All such facilities shall provide and thereafter maintain outdoor play areas with a minimum area of 75 square feet per child at total capacity and a sight-obscuring fence, wall or vegetative hedge of at least four (4) feet but not more than six (6) feet in height shall be provided, separating the play area from abutting lots with residential uses. Adequate off-street parking and loading space shall be provided. [Section 124.010.B as amended by Ordinance No. 94-O-446.S, effective April 12, 1994]



124.020 Commercial excavation - removal of earth products.

- A. Before a conditional use permit for the commercial excavation and removal of earth products can be granted, plans and specifications showing the location of the premises, grading plan, existing and proposed drainage, proposed truck access, existing vegetation and plant material on the site, and details of proposed reclamation following excavation and removal of earth products relating to regrading and revegetation of the site shall be submitted to, and approved by the Planning Commission.
- B. Any deviation from the plans as approved by the Planning Commission will serve as grounds for revocation of the conditional use permit.
- C. In reviewing the application, the commission may consider the most appropriate use of the land, distances from the property lines, the protection of pedestrians and vehicles, the prevention of the collection and stagnation of water at all stages of the operation, screening and/or berming of the excavation project site from adjoining properties, and the reclamation and rehabilitation of the land upon termination of the operation.
- D. A bond may be required to insure performance for reclamation of the project site following removal of such earth products.

124.030 Utilities. The erection, construction, alteration or maintenance by public utility or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings, shall be permitted in any district. Utility transmission and distribution lines, poles and towers may exceed the height limits otherwise provided for in this code.

124.040 Poultry farms and eggeries. Any building housing poultry, consisting of more than ten (10) chickens or other poultry, shall be located not less than 200 feet from every lot line. Odor, dust, noise, feathers, flies or drainage shall not be permitted to create or become a nuisance to surrounding property.

124.050 Stables and paddocks, private. All stables and paddocks shall be located on the rear half of a lot and not closer than 50 feet to any property line. Odor, dust, noise, flies or drainage shall not be permitted to create or become a nuisance to surrounding property.

124.060 Furniture and appliance businesses, outside storage and display. Outdoor storage, display or sales of new or used furniture, household appliances, apparatus, floor coverings or similar merchandise is expressly prohibited, but this does not apply to an occupant of property used only for residential purposes within an "R" district where

storage is not visible from without the premises and violates no other ordinance of the city. Any existing use of commercial or industrial premises, which was lawful on the effective date of this code, but which violates the provisions of this section, shall be discontinued within six (6) months after written notification to the owner or occupant of the premises.

124.070 Kennels, riding academies and public stables. Kennels, riding academies, and public stables shall be located not less than 200 feet from any property line, shall provide automobile and truck ingress and egress, and shall also provide parking and loading spaces so designed as to minimize traffic hazards and congestion. Applicants shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses. [As amended by Ordinance No. 98-O-446.DD, effective September 9, 1998]

124.080 Animal hospitals and veterinary clinics. A veterinary clinic or animal hospital shall not be located within 100 feet of a lot in any adjoining residential district, and the applicant shall show that adequate measures and controls shall be taken to prevent offensive noise and odor.

124.90 Cemetery, crematory, mausoleum, columbarium. A cemetery, crematory, mausoleum, or columbarium shall have its principal access on an arterial street (as designated by the arterial street map adopted by resolution of the City Council) with ingress and egress so designed as to minimize traffic congestion and shall provide required off-street parking space. Cemeteries located within any "R" district or abutting an "R" district shall establish and maintain appropriate landscaping and screening to minimize the conflict with abutting residential use.

124.100 Churches, hospitals, or other religious or eleemosynary institutions. In any "R" district, all such uses shall be located on an arterial street (as designated by the arterial street map adopted by resolution of the City Council), all buildings shall be set back a minimum of 30 feet from a side or rear lot line, and the minimum front yard setback as established in the "R" district in which it is located and all off-street parking facilities shall be adequately screened from abutting property.

124.110 Circuses, carnivals, animal rides, animal displays, amusement rides. A circus, carnival, animal ride, animal display or amusement ride may be permitted for a term not to exceed 90 days in any zoning district with the written approval of the City Council.

124.120 Community buildings, social halls, lodges, fraternal organizations, and clubs in an "R" district. All buildings shall be set back a minimum of 30 feet from a side or rear lot line, and the minimum front yard setback as established in the "R" district in which it is located, there shall be no external evidence of any incidental commercial activities taking place within the building. All such uses shall be located on an arterial street (as designated by the arterial street map adopted by resolution of the City Council), and be able to provide access without causing traffic congestion on local residential streets, and any such use shall prove that there will be no harm to adjacent existing or potential residential development due to excessive traffic generation, noise, or other circumstances.

124.130 Drive-in theaters. Drive-in theaters shall be located only on an arterial street (as designated by the arterial street map adopted by resolution of the City Council), shall provide ingress and egress so designed as to minimize traffic congestion, shall be so screened from an "R" district or dwelling that any noise shall not disturb residents or prospective residents, shall maintain signs and other lights only in such a way as not to disturb neighboring residents, and shall be so designed that the screen will be set back from and shall not be clearly visible from any street or highway.

124.140 Bed and breakfast facilities. A bed and breakfast facility is any establishment in a residential district having rooms or apartments rented or kept for rent to travelers or transients for a charge or fee paid or to be paid for rental or use of such facility. All residences proposed for bed and breakfast accommodations shall be owner-occupied and shall provide one (1) off-street parking space per rental unit in addition to two (2) spaces for the owner. In terms of eligibility and acceptability, preference will be given by the Planning Commission to residences applying for bed and breakfast accommodations which display significant architectural or historic character and quality.

124.150 Recreation vehicle parks. Recreation vehicle parks are regulated by the Health Division pursuant to ORS 446.310 to 446.990 and OAR 333-31-001 to 333-31-090 which contain rules for the construction, operation and use of tourist facilities that are necessary to protect the health and welfare of persons using these facilities. The following additional standards shall also apply.

- A. The space provided for each recreation vehicle shall be not less than 800 square feet in area, exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for other than recreation vehicles, and common open and landscaped areas.
- B. Roadways, other than dedicated, public right-of-ways, shall not be less than 36 feet in width if parking is permitted on the margin of the roadway, or less than 28 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphaltic concrete, Portland cement concrete or similar impervious surface and designed to permit easy access to each recreation vehicle space. The roadway widths may be reduced for one way travel lanes to a standard approved by the site plan committee.
- C. Each recreation vehicle space shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water. The part of the space which is not occupied by a recreation vehicle, not intended as an access way to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is appropriately landscaped and thereafter maintained. One (1) paved automobile parking space shall be located in the park equal to one (1) space per recreation vehicle park.
- D. There shall be provided trash receptacles for disposal of solid waste materials situated in convenient locations for the use of guests of the park and located in such a manner and be of such capacity that there is no uncovered accumulation of trash at any time. Such trash receptacles shall be screened from public view.

- E. Recreation vehicle parks shall maintain a minimum 20 foot setback from any abutting public streets and said setback area shall be appropriately landscaped and maintained. Except for the access roadway into the park, the park shall be screened on all sides by a sight-obscuring fence, hedge or wall of not less than six (6) feet in height and said fence, hedge or wall shall be located at the above listed 20 foot setback line.

124.160 Mobile home parks. Mobile home parks are regulated by the Department of Commerce pursuant to ORS 446.003 to 446.145 and OAR 814-28-010 and OAR 814-28-131 which contain rules establishing minimum safety standards for the design and construction of mobile home parks. The following additional standards shall also apply.

- A. Each space for a mobile home shall contain not less than 3,000 square feet, exclusive of space provided for the common use of tenants, such as roadways, general use structures, guest parking, walkways and areas for recreation and landscaping purposes.
- B. Roadways, other than dedicated, public right-of-ways, shall not be less than 36 feet in width if parking is permitted on the margin of the roadway, or less than 28 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphaltic concrete, Portland cement concrete or similar impervious surface and designed to permit easy access to each mobile home space. The roadway widths may be reduced for one-way travel lanes to a standard approved by the site plan committee.
- C. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the park.
- D. There shall be provided trash receptacles for disposal of solid waste materials situated in convenient locations for the use of occupants of the mobile home park and located in such a manner and be of such capacity that there will be no uncovered accumulation of trash at any time. Such trash receptacles shall be screened from public view.
- E. The mobile home park shall maintain a minimum 20 foot setback from any abutting public streets and said setback area shall be appropriately landscaped and thereafter maintained. Except at the entry, exit and vision clearance areas, the park shall be screened on all sides by a sight-obscuring fence, hedge or wall of not less than six (6) feet in height and said fence, hedge or wall shall be located at the above listed 20 foot setback line.
- F. Each mobile home situated within the mobile home park shall be required to install and maintain rodent-proof skirting around the unit within 30 days of first locating within the park.

124.170 Short Term Rentals. Any existing dwelling in any of the residential zones and in the General Commercial (C-3) zone can be used for short-term rental purposes as set forth in that zone and pursuant to certain regulations as follows:

- A. The property owner or holder shall obtain a business license from the City of Brookings and register the dwelling on a separate form.
- B. A transient room tax will be applied pursuant to Ordinance 80-O-342.
- C. The property owner shall provide the name, address and telephone number of a local representative, either a property management business or an individual living within the Brookings urban growth boundary, who has the authority to, make or have repairs made, resolve disputes and/or terminate occupancy if necessary.
- D. Representative's name and telephone number shall be posted within the dwelling
- E. Applicant shall subscribe to a scheduled waste collection service and provide garbage receptacles on the property.

[Section 124.170 as added by Ordinance No. 01-O-446.MM, effective January 18, 2002]

Section 128  
SPECIAL SETBACK PROVISIONS ON CERTAIN STREETS

Sections:

- 128.010 Purpose and designation of streets.
- 128.020 Compliance required.
- 128.030 Variance procedures.

128.010 Purpose and designation of streets. Because of heavy or arterial traffic volume and congestion, existing or probable intensive or commercial development of abutting properties, substandard paving widths, the probability of inadequate sight distances, and other like conditions affecting traffic safety and light, air, and vision along streets, the city council finds that the public health, safety and welfare require that building setback lines, as hereinafter specified be, and they are hereby, established on all properties abutting the following named streets and sections of streets. Where applicable, requirements set forth in this provision shall be in addition to the yard requirements specified for the zoning districts. Unless otherwise specified, the distances set forth shall be measured from the center line and at right angles to the centerline of the street.

StreetDistance

128.020 Compliance required. It shall be unlawful for any person, firm, or corporation to construct, erect or locate any building or other structure within any setback lines as established in this section.

128.030 Variance procedure. Where practical difficulties, unnecessary hardships, and results inconsistent with the general purposes of this code may result from the strict application of the provisions of this section, a variance may be granted pursuant to the provisions and procedures set forth in section 136.

**Section 132**  
**INTERPRETATIONS AND EXCEPTIONS**

**Sections:**

- 132.010 General exceptions to the lot size requirements.
- 132.020 Accessory structures and uses.
- 132.030 Exception to height regulations.
- 132.040 Exception to yard requirements.
- 132.050 Vision clearance and vision clearance area.
- 132.060 Access.
- 132.070 Authorization of similar uses.
- 132.080 Existing uses.
- 132.090 Pending building permits.
- 132.100 Existing land restrictions.
- 132.110 Fences, walls and hedges.

**132.010 General exceptions to the lot size requirements.** If at the time of annexation or original enactment of the portion of this code imposing the lot size requirement, a lot of record had an area or dimension less than that required for the zoning district in which the property is located, the lot may nevertheless be occupied by any use allowed in the district, subject to compliance with all other requirements of the district, including all yard requirements; provided, however, that the use of a lot in an "R" district which has an area deficiency shall be limited to a single family dwelling. Substandard lots within a platted, recorded subdivision which have been consolidated for taxing purposes may be segregated according to the original lot lines, if they meet all the requirements of this subsection. Non-platted, contiguous substandard parcels held in common ownership shall be considered as one (1) lot for purposes of this subsection. In any event, lots shall not be segregated where a physical condition exists which ties the use of one (1) lot to that of another.

**132.020 Accessory structures and uses.** Accessory structures shall comply with all requirements of the principal use except where specifically modified by this code and shall comply with the following limitations:

- A.** A greenhouse or hot house may be maintained accessory to a dwelling in an "R" district, provided there are no sales.
- B.** A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.

- C. An accessory building shall not be located within eight (8) feet of a principal dwelling on the same lot.
- D. On any lot within an "R" district or any lot in another district facing an "R" district, transmitting or receiving antennas or dishes shall not be located within the space extending the full width of the lot between the main building and the front lot line. Satellite receiving dishes located within an "R" district shall be screened from view from the nearest public right-of-way.
- E. Boats, trailers, pick-up camper, motor home, and similar equipment may be stored, but not occupied, on a lot in an "R" district provided that:
1. Parking and storage shall be at least five (5) feet from the front property line and at least three (3) feet from a street and interior side or rear lot line, except however, no storage shall be allowed within the twenty (20) feet of the corner along both property lines at a street corner. **[As amended by Ordinance 03-O-446 RR, effective January 21, 2004].**
  2. All areas used for storage of such vehicle/equipment shall be paved or a graveled hard surface. **[As amended by Ordinance 03-O-446 RR, effective January 21, 2004].**

**132.030 Exception to height regulations.** Height limitations set forth elsewhere in this code shall not apply to:

- A. Barns, silos, water towers and tanks, or other farm buildings and structures, provided they are not less than 50 feet from every lot line; chimneys, church spires, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, monuments, fire hose towers, masts, aerials, antennas, elevator shafts, and other similar projections; and outdoor theater screens, provided said screens contain no advertising matter other than the name of the theater.
- B. In no case shall the height of structures listed in Section 132.030 A, above exceed one (one) and one-half (1/2) times the height limitation set forth in the applicable zoning district.



**132.040 Exception to yard requirements.**

A. Projections into required yards. Certain architectural features may project into required yards or courts as follows:

1. Cornices, canopies, eaves, belt courses, sills, or other similar architectural features, or fireplaces, but these may not in any case extend more than 24 inches into any required yard area.
2. Fire escapes, open uncovered porches, balconies, decks, landing places, or outside stairways may not in any case extend more than 24 inches into any required side or rear yards, and not exceeding six (6) feet into any required front yard. In the case of dwellings existing on the effective date of adoption of this code and which have a front yard setback at or less than that required by the applicable zoning district regulation, an enclosed covered entry porch may project into the required front yard not exceeding six (6) feet and the enclosed porch may not exceed 36 square feet in area. This is not to be construed as prohibiting open porches, patios, stoops or decks not exceeding 30 inches in height and not approaching closer than 18 inches to any lot line. **[As amended by Ordinance No. 89-O-454]**

B. Exceptions to front yard requirements.

1. If there are dwellings on both abutting lots with front yards less than the required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
2. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard need not exceed a depth of the front yard on the abutting lot and the required front yard depth.

**132.050 Vision clearance and vision clearance area.**

A. Nothing in this code shall be deemed to permit a sight obstruction within any required yard area along any street or at a street or alley intersection interfering with the view of operators of motor vehicles or pedestrians on streets or alleys to such an extent as to constitute a traffic hazard. If the

order the removal or modification of any such obstruction within any such required yard area. The order shall be effective upon delivery of written notice to the owner of the property giving the owner ten (10) days after delivery of the notice in which to remove or modify the obstruction; provided, however, that said notice may be given by certified letter addressed to the owner of the address indicated in the records of the Curry County assessor's office and the ten (10) day period shall run from the date of mailing of such notice. Any decision of the City Manager may be appealed in writing to the City Council, if written notice of appeal is filed with the City Recorder within ten (10) days after the giving of the notice to remove or modify. The city may place a lien against the property for the cost of removal of any such vision obstruction by city personnel or contractor for the city.

- B.** Vision clearance areas shall be located on the corners of properties abutting the intersections of two (2) or more streets and intersections of streets with alleys. A vision clearance area shall consist of a triangular area two (2) sides of which are lot lines measured from the corner intersection of the street or alley lot lines for a distance specified in this regulation, or where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides, with the following minimum distances establishing the two (2) sides of the triangle:
1. In a residential district the distance shall be 20 feet along each property line from the point of intersection of two (2) or more streets or at the intersection of a street and an alley, then ten (10) feet along the property line and ten (10) feet along the alley from the point of intersection.
  2. In "C" and "M" districts where yards are required, the distance shall be 15 feet along each property line from the point of intersection of two (2) or more streets or at the intersection of a street and an alley, then ten (10) feet along the property line and ten (10) feet along the alley from the point of intersection.
- C.** A vision clearance area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding (3) feet in height,

shall be lower. Trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade.

**132.060** **Access.** Except as permitted by other provisions of this code, no lot shall contain any building used in whole or in part for residential purposes unless said lot abuts a street, dedicated and improved as a public right-of-way, other than an alley, or an accepted private street, for a distance of at least 20 feet. Residential development is permitted on dedicated but unimproved streets provided that the applicant has signed and recorded a Deferred Improvement Agreement. On all lots created after the date of this amendment, access to the lot must be from the frontage street and the lot must be addressed to that street. The Site Plan Committee may require that driveway construction be completed and approved by the City Engineer prior to the recordation of a Minor or Major Partition Map. Secondary access may be allowed but cannot replace the primary access from the frontage street. **[Amended by Ordinance No. 91-O-446.F, effective September 10, 1991]**

**132.070** **Authorization of similar uses.** The Planning Commission may rule by resolution that a use not specifically named in the allowed uses of a district, shall be included among the allowed uses if the use is of the same general type and is similar to the allowed uses. Such ruling by resolution of the Planning Commission shall thereafter be presented to the City Council for legislative procedures set forth in Section 144.

**132.080** **Existing uses.** Except as hereafter specified, any use, building or structure lawfully existing at the time of the enactment of this code may be continued even though such use, building or structure may not conform to the provisions of this code, for the district in which it is located; provided, however, that this section does not apply to any use, building or structure established in violation of any zoning ordinance previously in effect.

**132.090** **Pending building permits.** Nothing herein shall require any change in the location, plans, construction, size or designated use of any development, building, structure, or part thereof, for which the required official approval and city building permit have been granted prior to the adoption of this code, or which was lawfully permitted and under construction within an area prior to annexation thereof to the City of Brookings. Unless construction of such building or structure within the city begins within 60 days after the adoption of this code, no such existing permit shall be deemed to allow any building or use which would not conform to the

requirements of this code.

**132.100. BROOKINGS DEVELOPMENT CODE**

**132.110**

**132.100 Existing land restrictions.** It is not intended by this code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this code imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this code shall govern.

**132.110 Fences, walls and hedges.** Fences, walls and hedges may be located within required yards up to the property line, except that such sight obscuring fences, walls or hedges within a vision clearance area pursuant to Section 132.050 shall not exceed three (3) feet in height measured from the top of curb, or street centerline grade, whichever shall be lower.

Section 136  
VARIANCES

Sections:

- 136.010 Purpose.
- 136.020 Planning Commission authority.
- 136.030 Application.
- 136.040 Burden of proof.
- 136.050 [Deleted by Ordinance No. 93-O-446.O, effective June 22, 1993]
- 136.060 [Deleted by Ordinance No. 93-O-446.O, effective June 22, 1993]
- 136.070 [Deleted by Ordinance No. 93-O-446.O, effective June 22, 1993]
- 136.080 Action by commission.
- 136.090 Appeal.
- 136.100 Effect.
- 136.110 Limitation of new application.
- 136.120 Violation of conditions.
- 136.130 Mapping.
- 136.140 Variance to run with the land.

136.010 Purpose. Where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this code may result from the strict application of certain provisions thereof, variance may be granted as provided in this section. This section may not be used to allow a use that is not in conformity with the uses specified in this code for the district in which the land is located. In granting a variance, the city may impose conditions similar to those provided for conditional uses to protect the best interests of the surrounding property, the neighborhood or the city as a whole.

136.020 Planning Commission authority. The Planning Commission shall have the authority to approve, approve with conditions or disapprove any proposed variance. The Planning Commission may, but shall not be required to, act upon the proposed variance at the meeting in which the applicable public hearing is held; provided, however, that disposition shall be made of the matter within 40 days of the date of the applicable public hearing; provided, further, that nothing shall prohibit the Planning Commission from, by motion, postponing disposition to definite time.

136.030 Applications. The property owner or his authorized agent may make application for a Variance from the provisions of this code by filing an application, on a Land Use Application form, with the City Manager or his designee for review by the Site Plan Committee pursuant to Section 80.030.B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information:

- A. A filing fee in the amount established by general resolution of the City Council (no part of which is refundable).
- B. A legal description of the property.

- C. Plans and elevations necessary to show the proposed development.
- D. A map (Curry County assessor's plat) showing the subject property, surrounding properties and the names and addresses of current property owners within 250 feet of the subject property.
- E. A statement, plans and supportive evidence that all of the following conditions exist:
  - 1. Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control, and to which the applicant has not contributed.
  - 2. The variance is necessary for the preservation of the property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
  - 3. The authorization of the variance shall not be materially detrimental to the purpose of this code, be injurious to property in the same zone or vicinity in which the property is located or be otherwise detrimental to the objectives of any city development plan or policy.
  - 4. The variance request is the minimum variance from the provisions and standards of this code which will alleviate the hardship.

[As amended by Ordinance No. 93-O-446., effective April 20, 1993]

136.040 Burden of proof. In order for the Planning Commission to grant a variance, all the conditions and circumstances listed in subsections A, B, C, D, and E of Section 136.030 must be found to exist. The specific findings by the Planning Commission in granting a variance must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the variance from the provisions of this code. If no evidence is produced concerning any or all of the findings listed in subsections A, B, C, D, and E of Section 136.030, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any variance application. [As amended by Ordinance No. 93-O-446., effective April 20, 1993]

136.050 [Deleted by Ordinance No. 93-O-446.O, effective June 22, 1993]

136.060 [Deleted by Ordinance No. 93-O-446.O, effective June 22, 1993]

136.070 [Deleted by Ordinance No. 93-O-446.O, effective June 22, 1993]

136.080 Action by commission.

- A. Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision.

- B. Where the Planning Commission is of the opinion that said proposed variance shall be granted, it shall, in open public meeting, by a majority of its members in attendance, enter a Planning Commission order granting the variance, which order shall include the specific findings of fact, conclusions and supportive evidence pertaining to each specific condition and circumstance that exists pursuant to subsections A, B, C, and D of Section 136.030.
- C. Entry of order. The chairman, or in his absence, the officer presiding over the Planning Commission meeting in which the above described order is enacted, shall forthwith sign the order and cause the same to be filed with the City Recorder, the order shall be in full force and effect. An order denying the variance shall be entered and filed in a like manner, with the necessary findings, where the Planning Commission, based on the standards specified herein, determines that the variance should not be granted.
- D. In granting a variance, the Planning Commission may impose such conditions or limitations as it deems reasonably necessary to serve the public purposes of this code. The variance shall not be effective if any such express condition is not fulfilled or is violated or if the activity of the applicant exceeds any express limitation in the variance. It shall be unlawful for any person to cause or permit the use of any property in violation of the express conditions or limitations of any variance granted with respect to such property.

136.090 Appeal. Any applicant or any other interested person, firm, or corporation, within 15 days after the decision of the Planning Commission is filed with the City Recorder, and appeal the same to the City Council in the manner prescribed in Section 156 of this code.

136.100 Effect. No building or zoning permit shall be issued in any case where a variance is required until 15 days after the decision of the Planning Commission is filed with the City Recorder, and then only in accordance with the terms and conditions of said approval. An appeal from the action of the commission shall automatically stay the issuance of the building or other permit until such appeal has been completed and the Council has acted thereon. In the event the Council acts to grant said variance, the building or zoning permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed upon said variance.

136.110 Limitation on new application. In the case where an application is denied by the Planning Commission, or denied by the City Council on appeal from the Planning Commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for a period of one (1) year from the date of said denial unless, in the opinion of the Planning Commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

136.120 Violation of conditions.

- A. The Planning Commission, on its own motion, may revoke any variance for noncompliance with conditions set forth in the granting of said variance after first holding a public hearing and giving notice of such hearing as provided in Sections 136.050 thru 136.070. The foregoing shall not be the exclusive remedy.
- B. If an established time limit for development expires and no extension has been granted, the variance shall be considered void.

136.130 Mapping. Within 30 days after the entry of the variance order, the permit application file number shall be indicated on the officially adopted zoning map on the lot or lots affected by such variance permit.

136.140 Variance to run with the land. A variance granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application, except as otherwise provided in this section.



Section 140  
CONDITIONAL USE PERMITS

Sections:

- 140.010 Purpose.
- 140.020 Planning Commission authority.
- 140.030 Application.
- 140.040 Public hearings.
- 140.050 Action by the Planning Commission.
- 140.060 Burden of proof.
- 140.070 Entry of order.
- 140.080 Time limitation.
- 140.090 Appeal.
- 140.100 Effect.
- 140.110 Violation of conditions.
- 140.120 Limitation on new applications.
- 140.130 Notification of action.
- 140.140 Mapping.
- 140.150 Minor change.
- 140.160 Use permit to run with the land.

140.010 Purpose. In all districts, conditional uses may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this code and their effect on surrounding properties.

140.020 Planning Commission authority. The Planning Commission shall have the authority to approve, approve with conditions, disapprove or revoke conditional use permits subject to the provisions of this section. Changes in use, expansion or contraction of site area, or alteration of structure or uses classified as conditional and existing prior to the effective date of this code shall conform to all regulations pertaining to conditional uses.

140.030 Application. The property owner or his authorized agent may make application for a Conditional Use Permit by filing an application, on a Land Use Application form, with the City Manager or his designee for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information: [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

- A. Name and address of applicant.
- B. Statement that the applicant is the owner of the property or is the authorized agent of the owner.
- C. Address, legal description and Curry County Assessor's tax lot number of the property.

- D. The application shall include an accurate scale drawing of the site and improvement proposed. The drawing must be adequate to enable the Planning Commission to determine the conformance of the proposal with the requirements of this code and shall be prepared in a manner conforming to the requirements and procedures of site plan approval, Section 80.
- E. A map (Curry County Assessor's plat) showing the subject property and surrounding properties and listing of current owners within 250 feet of the property subject to the conditional use permit application.
- F. Statement and supportive evidence indicating the precise manner of conformance with each of the applicable provisions of this code together with any other data pertinent to the findings prerequisite to the granting of a conditional use permit as listed in subsection C of Section 140.050.
- G. The application shall be accompanied by a filing fee in the amount established by general resolution of the City Council. No part of the filing fee is refundable.

140.040 Public hearings. Before a conditional use is permitted, the proposed conditional use shall be considered by the Planning Commission at a public hearing. Notice of said hearing shall be given as provided in Sections 84. [Section 140.040 as amended by Ordinance No. 95-O-446.BB, effective May 7, 1996.]

140.050 Action by the Planning Commission.

- A. Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision. The decision of the Planning Commission shall be final unless appealed to the City Council.
- B. The Planning Commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a Planning Commission order, in open meeting, by a majority of its members in attendance, which order shall describe the basis for the decision and state the specific circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.
- C. Findings of fact. In order to grant any conditional use, the Planning Commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:
  - 1. The proposal is in compliance with the Comprehensive Plan.
  - 2. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this code.

3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
  4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing.
  5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complimentary to the surrounding area.
- D. Conditions of approval. In permitting a conditional use, the Planning Commission may impose, in addition to regulations and standards expressly specified in this code, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:
1. Increasing required lot size, yard dimensions, open spaces or buffer areas.
  2. Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area.
  3. Requiring landscaping and maintenance thereof.
  4. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress.
  5. Requiring means of pedestrian/bicycle access pathways to serve the property.
  6. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas.
  7. Limiting size, location and number of signs.
  8. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property.
  9. Limiting or prohibiting openings in sides of buildings or structures.

10. Enclosure of storage areas and limitation of outside display and/or storage of merchandise.
11. Requiring maintenance of grounds.
12. Regulation of noise, vibration, odors, etc.
13. Regulation of time for certain activities.
14. Establishing a time period within which the proposed use shall be developed.
15. The requirement of a bond for removal of such use within a specified period of time.
16. Increase the size, type or capacity of any or all utility services, facilities or appurtenances.
17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the Planning Commission and new conditions imposed.
18. The Planning Commission may require that an applicant furnish the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to city standards.
19. The Planning Commission may also require that site plan committee review and approval is necessary in any particular situation to accomplish the purposes and objectives of this code.
20. And such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this section.

140.060 Burden of proof. The specific findings made by the Planning Commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in subsection C of Section 140.050, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.

140.070 Entry of order. Where the Planning Commission is of the opinion that said conditional use permit shall be granted, it shall, in open public meeting, by a majority of its members in attendance, enter a Planning Commission order granting the conditional use permit, which order shall include specific findings of fact, conclusions and supportive evidence pertaining to subsection C of Section 140.050, and any conditions of approval as authorized by subsection D of Section 140.050. The chairman of, or in his absence, the officer presiding over the Planning Commission meeting in which the above described order is enacted, shall forthwith sign the order and cause the same to be filed with the City Recorder. Upon the filing of said order with the City Recorder, the order shall be in full force and effect.

An order denying a conditional use permit shall be entered and filed in a like manner, with the necessary findings of fact, where the Planning Commission, based on the standards specified herein, determines that the conditional use permit should not be granted.

140.080 Time limitation. A conditional use permit shall become void after one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The Planning Commission may extend a use permit for an additional period of one (1) year, subject to the requirements of this code.

140.090 Appeal. The applicant or any interested person may, within 15 days after the decision of the Planning Commission is filed with the City Recorder, appeal the same to the City Council in the form prescribed by the city. The appeal procedure shall be as set forth in Section 156.

140.100 Effect. No building or other permit shall be issued in any case where a conditional use permit is required by the terms of this code until 15 days after the decision of the Planning Commission is filed with the City Recorder. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the Council acts to grant said conditional use permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

140.110 Violation of conditions. The Planning Commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Section 84. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a conditional use permit. [Section 140.110 as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996]

140.120 Limitation on new applications. In a case where an application is denied by the Planning Commission, or denied by the City Council on appeal from the Planning

Commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for a period of one (1) year from the date of said denial unless, in the opinion of the Planning Commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

140.130 Notification of action. The City Manager or his designee shall notify the applicant for a conditional use permit of the Planning Commission's action within five (5) days after entry of the final order. A copy of said order shall be provided to the applicant.

140.140 Mapping. Within 30 days after the entry of the final order of a conditional use permit, the permit application file number shall be indicated on the official zoning map on the lot or lots affected by such permit.

140.150 Minor Change. A minor change to the approved Conditional Use Permit may be allowed through the procedure set forth in Section 116.110 of this Code. [Section 140.050 as added by Ordinance No. 92-O-446.J, effective April 7, 1992]

140.160 Use permit to run with the land. A conditional use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this section.

Section 144  
AMENDMENTS

Sections:

- 144.010 Procedure.
- 144.020 Initiation of amendments.
- 144.030 Application.
- 144.040 Action by the Planning Commission.
- 144.050 Action by the City Council.
- 144.060 Burden of proof.
- 144.070 Limitation of new applications.
- 144.080 Resolution of intent to rezone.

144.010 Procedure. This code or the comprehensive plan map or text may be amended by changing the boundaries of districts or designations or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, by following the procedure of this code.

144.020 Initiation of amendments. An amendment to the text of this code or to the zoning map and/or to the comprehensive plan map or text may be initiated by:

- A. Motion of the Planning Commission.
- B. Motion of the City Council.
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map redesignation.

144.030 Application. The property owner or his authorized agent may make application for an Amendment by filing an application, on a Land Use Application form, with the City Manager or his designee for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information: [As amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

- A. Name and address of the applicant.
- B. Title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application.

- C. Address, legal description and Curry County Assessor's tax lot and map number of the subject property.
- D. A map (Curry County Assessor's plat) showing the subject property, and surrounding properties and a listing of current property owners within 250 feet of the property subject to this application.
- E. Statement and supportive evidence indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan for the city of Brookings and each of the applicable provisions of this code together with any other data pertinent to the findings prerequisite to the granting of an amendment to this code, zoning map or comprehensive plan map and/or text as listed in subsection D of section 144.050.
- F. The application shall be accompanied by a filing fee in the amount established by general resolution of the City Council. No part of the filing fee is refundable.

144.040 Action by the Planning Commission.

- A. Upon filing of said application for an amendment as described in Section 144.030, or upon motion of the City Council or Planning Commission for the initiation of an amendment, the matter shall automatically be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Section 84, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The Planning Commission shall study the matter to the extent that it considers such study to be necessary, and shall, in open meeting, recommend the approval or disapproval of said amendment. The recommendation shall be made by a majority of those present at the planning commission meeting at which official action is taken on the application. The recommendation shall be reported to the City Council by filing said recommendation with the City Recorder. No further action of acceptance of the recommendation need be taken by the City Council, but the City Recorder shall, upon filing the recommendation, report the same to the City Council at the next regular City Council meeting after the filing of the recommendations.[Section 144.040 Subsection A as amended by Ordinance No. 95-O-446.BB, effective May 7, 1996.]
- B. The report and recommendations of the Planning Commission shall be made within 90 days after the filing of the application; provided that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the commission to so report within 90



days without the aforesaid agreement shall be deemed to be a recommendation of approval of the proposed amendment of the Planning Commission. If the commission deems it advisable, it may recommend that the area under consideration for change in classification or designation be enlarged or diminished, or reclassified to a district or category other than the district or category originally initiated.

144.050 Action by the City Council.

- A. Hearing before City Council. Upon receipt of said report from the Planning Commission or upon the expiration of such 90 days as aforesaid, a public hearing is automatically set for the next regular City Council meeting following the receipt of the report; provided, however, that the Council may, by motion, set the date of such public hearing at such other time or at such other place it desires. Notice of said public hearing shall be given as provided in Section 84, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. [Section 144.050, Subsection A as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]
- B. At the conclusion of the public hearing, the Council may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment. The Council shall in any event render its decision on any application within 60 days after the receipt of the report and recommendation of the Planning Commission or after the expiration of such 90 days as aforesaid; provided, however, that nothing shall prohibit the City Council from, by motion, postponing disposition of the application to a definite time past the said 60 day period.
- C. If the Council proposes to adopt an amendment that is substantially altered from the recommendation of the commission, the Council may refer said proposed amendment back to the commission for report and recommendation, which may include the holding of a joint meeting, before adoption. The commission shall consider said amendment within 30 days of said referral and report thereon at the next regular meeting of the City Council. Failure to so report will be deemed to constitute approval by the Planning Commission.
- D. Except as set forth herein, in order for the City Council to adopt an ordinance for an amendment to this code, comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual

and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and generalized land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan.

For amendments to the Land Development Code that are legislative in nature, findings will not be required. [As amended by Ordinance No. 94-O-446.W, effective August 9, 1994]

144.060 Burden of Proof. If findings are required, the specific findings made by the City Council, upon the recommendation of the Planning Commission, to adopt an ordinance for an amendment to this code, comprehensive plan text and/or map must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in subsection D of section 144.050, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings of the ordinance adopting the amendment proposal.

[As amended by Ordinance No. 94-O-446.W, effective August 9, 1994]

144.070 Limitation on new applications. In a case where an application for an amendment is denied by the City Council, said application shall not be eligible for resubmittal for one (1) year from the date of said denial, unless said denial was specifically stated to be without prejudice. A new application affecting the same property must be, in the opinion of the Planning Commission and the City Council, substantially different from the application denied to be eligible for consideration within one (1) year from the said date of denial, unless the first denial was denied without prejudice, or the Planning Commission finds that conditions have changed to an extent that further consideration is warranted.

144.080 Resolution of intent to rezone. If from the facts presented in the findings and the report and recommendations of the Planning Commission and required by section 144.040, the City Council determines that the public health, safety, welfare, and convenience will be best served by a proposed change of zone, the Council may indicate its general approval in principle of the proposed rezoning by the adoption of a "resolution of intent to rezone" the area involved. This resolution shall include any conditions, stipulations or limitations which the Council may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the Council may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said

resolution, on the part of the applicant, shall make such a resolution a binding commitment on the City Council. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning, or by imposing setback, area or coverage restrictions not specified in the code for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the Council shall, by ordinance, effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the resolution, including the time limit placed on the resolution, shall render the resolution of intent to rezone null and void, unless an extension is granted by the Council upon recommendation of the Planning Commission.

**Section 148**  
**ANNEXATIONS**

**Sections:**

- 148.010 Generally.
- 148.020 Application procedures.
- 148.030 Annexation impact analysis.
- 148.040 Zoning of annexed property.

**148.010 Generally.** A proposal to annex territory to the City of Brookings shall be processed in accordance with the requirements contained herein, provided that the proposal complies with the provisions of ORS 222.111 to 222.180 and ORS 222.840 to 222.915.

**148.020 Application procedures.** An application for annexation may be filed with the City on a form prescribed by the City, accompanied by a filing fee in the amount established by general resolution of the City Council. No part of the filing fee is refundable. Said application shall contain the following information:

- A. Vicinity map identifying the proposed area of annexation and existing City limits.
- B. Assessor's parcel maps of the proposed annexation area, which maps shall indicate and identify those parcels for which consents to annex have been signed by either electors and/or owners, depending on which annexation process is used under the provisions of the ORS.
- C. Consent to annex forms completed and signed by all property owners within the territory proposed to be annexed.
- D. Legal metes and bounds, or lot and block description of the territory proposed to be annexed.
- E. Specific information on each parcel within the territory proposed to be annexed as follows:
  - 1. Current assessed valuation as shown on the Curry County Assessor's tax rolls.
  - 2. Acreage.
  - 3. Map and tax lot number.
  - 4. Owner or owners of record and or registered electors residing on the premises of the subject parcel.

- F.** Addresses of all dwelling units and businesses within the territory proposed to be annexed.
- G.** Significant natural features within the area proposed for annexation including but not limited to, streams, wetlands, slopes, and areas of geological significance.
- H.** Adjoining land uses.
- I.** Written findings of fact prepared by the petitioner(s) or petitioner(s) representatives which address the following:
  - 1.** Existing land uses within the territory proposed to be annexed.
  - 2.** Existing zoning and comprehensive plan designations within the territory.
  - 3.** Existing improvements, such as water system, streets, sanitary sewer, storm drainage.
  - 4.** Special service districts within the territory proposed to be annexed, such as water, irrigation, fire, school, sanitary, etc.
  - 5.** Urban services needed and necessary to service the territory proposed to be annexed, the availability of same relative to capacity, condition and cost of extension and/or improvement to urban standards and an estimated time line for any required improvements.
  - 6.** Compliance with all applicable goals and policies of the Comprehensive Plan.
  - 7.** Compliance with all of the items listed in subsection 148.030.
  - 8.** The burden of providing the findings is the responsibility of the applicant.

**148.030 Annexation impact analysis.** The following criteria shall apply to all annexation requests:

- A.** The proposed use for the site complies with the Brookings Comprehensive Plan and with the designation on the Brookings Comprehensive Plan Map. If a redesignation on the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Brookings Comprehensive Plan.
  
- B.** An adequate level of urban services and infrastructure to accommodate anticipated future development either is available, or can reasonably be made available. An adequate level of urban services shall be defined as:

Municipal sanitary sewer, storm drainage, and water service meeting the requirements enumerated in the Brookings Public Facilities and Services Plan and the Land Development Code for provision of these services. The adequacy of these services shall be considered in relation to annexation proposals.
  
- C.** Documentation of impacts on existing streets within the annexation area and adjacent transportation facilities by future development of the area. The adequacy of the transportation facilities shall be considered in relation to annexation proposals.
  
- D.** As development occurs within the annexed area new streets shall be constructed to the standards of the Brookings Transportation System Plan and Land Development Code. Existing street within the annexed area shall remain in the county's jurisdiction until such time as they are improved to the city street standards.
  
- E.** Documentation of the availability and adequacy to serve the proposed annexation with police, fire, parks, and school facilities and services.
  
- F.** Improvements for needed infrastructure shall be secured by a funding mechanism that will place the economic burden on the territory proposed for annexation and not on the City of Brookings.

**148.040 Zoning of annexed property.**

- A. A proposal for annexation shall include a request for a city zoning designation for the territory proposed to be annexed which shall be considered at the time of the annexation proposal; however, the City Council will ultimately determine the zoning to be applied. The zoning designation of annexed territory shall be specified in the annexation ordinance and shall become effective upon acceptance of the annexation by the Secretary of State.

**[As amended by Ordinance No.05-O-446.UU, effective March 16, 2005].**

Section 152  
VACATIONS

Sections:

- 152.010 Generally.
- 152.020 Application procedures.
- 152.030 Vacation criteria.
- 152.040 Recording costs.

152.010 Generally. A request to vacate a public street, alley, easement, plat or public place shall, in addition to the requirements contained herein, be subject to the provisions of ORS Chapter 271, which requires the holding of a public hearing. Vacations may be initiated either by petition pursuant to ORS 271.080, upon recommendation of the planning commission, or on the council's own motion, pursuant to ORS 271.130.

152.020 Application procedures. Petitioners or persons requesting the council to initiate a vacation on its own motion, pursuant to ORS 271.130, shall file an application which shall contain the following:

- A. Vicinity map drawn to scale of 1" = 1,000' feet identifying the area proposed to be vacated and adjoining properties.
- B. Legal description of area proposed to be vacated.
- C. County assessor's parcel maps of the proposed vacation area identifying abutting and affected properties. Identified upon the assessor's parcel maps shall be those abutting and affected properties whose owners have consented to the proposed vacation.
- D. Consent to vacate forms completed and signed by all consenting property owners within the abutting and/or affected area.
- E. Names and addresses of all abutting and/or affected property owners, including map and tax lot numbers prepared on mailing labels.
- F. Written findings of fact prepared by the petitioner(s) or the petitioner(s) representative.
- G. The application shall be accompanied by a filing fee in the amount established by general resolution of the City Council , no part of which is refundable.

152.030 Vacation criteria. A request to vacate will be considered by the Planning Commission for recommendation to the City Council following a determination based upon the findings prepared and submitted by the petitioner(s), which shall address the following criteria:



- A. Compliance with the comprehensive plan, circulation element or other applicable sections of the document.
- B. If initiated by petition pursuant to ORS 271.080, the council shall make the determinations pursuant to ORS 271.120 based upon evidence provided by the petitioner(s) in the written findings.
- C. If initiated upon a recommendation of the Planning Commission and/or by the City Council on its own motion pursuant to ORS 271.130, a determination shall be made that the vacation will not substantially affect the market value of all such abutting property to the area proposed to be vacated, unless the City Council proposes to provide for paying such damages.

152.040 Recording costs. Pursuant to ORS 271.150, following an action by the City Council to vacate an area, such enacting ordinance vacating any street, alley, easement, plat or public place shall be recorded with the county clerk, together with any maps, plat or other record in regard thereto. The petitioner(s) for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map.

Section 156  
APPEAL TO CITY COUNCIL

Sections:

- 156.010 Generally.
- 156.020 Public hearings.
- 156.030 Appeal procedure.
- 156.040 Review by City Council.
- 156.050 Appeal filing fee.

156.010 Generally. Any applicant or any other interested person may, within 15 days after any decision of the Planning Commission is filed with the City Recorder appeal the same by submitting to the office of the City Manager a written request that the City Council reconsider the order of the Planning Commission. The written request appealing the decision of the Planning Commission shall state specific reasons for the appeal based upon pertinent, applicable sections of this code. Upon receipt of the written request, the City Manager shall cause the appeal to be included on the agenda for the next regular Council meeting, unless such meeting is within 18 days of the receipt of the request, in which case the matter shall be placed on the agenda for the regular Council meeting next following.

156.020 Public hearings. Within 40 days after the filing of the appeal, a public hearing shall be heard and the Council shall render its decision. Notice of the public hearing shall be given as provided in Section 84. [Section 156.020 as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]

156.030 Appeal procedure. The City Council shall, at the time of the public hearing, hear the appellant or his representative, the applicant, if any, a representative of the Planning Commission, and such other persons as may desire to be heard on their own or on the public behalf. If the Council decides to modify or reverse the order of the Planning Commission, the Council may refer such matter back to the Planning Commission for a report and recommendation prior to the Council taking final action. The final decision of the City Council shall be accomplished by adopting a written resolution which sets out the extent and conditions of the modification or reversal. The decision of the Council shall be final and have immediate effect.

156.040 Review by City Council. Within 15 days following the date of a decision by the Planning Commission, the City Council may, on its own motion, initiate proceedings to review the action. The City Council shall give notice of the time and place when the decision of the Planning Commission will be reviewed. Notice of hearing will be given in the manner prescribed in Section 84. [Section 156.040 as amended by Ordinance No. 96-O-446.BB, effective 5-7-96.]

156.050 Appeal filing fee. At the time of filing any notice of appeal as authorized in Section 156.010, the applicant shall pay to the City Recorder an appeal fee in such amount as may be provided by general resolution of the City Council.

Section 160  
APPEAL TO PLANNING COMMISSION

Sections:

- 160.010 Generally.
- 160.020 Appeal procedure.

160.010 Generally. In the event of an ambiguity in this code affecting enforcement thereof, the Planning Commission shall have the power to hear and decide appeals from administrative interpretations and to declare the meaning and intent, and interpret the provisions of this code. In thus resolving ambiguities on appeal, the Planning Commission shall so interpret this code as to carry out Section 1.040 and the expressed purpose of the zoning district involved.

160.020 Appeal procedure. Any applicant or any other interested person may, within 15 days after the decision of the site plan committee or administrative staff, file an appeal with the City Manager or his designee, pursuant to procedures set forth in Sections 156.010, 156.020, 156.030 and 156.050.

Section 164  
ENFORCEMENT AND PENALTIES

Sections:

- 164.010 Enforcement.
- 164.020 Violations a nuisance.
- 164.030 Penalties.
- 164.040 Severability and validity.

164.010 Enforcement. It shall be the duty of the City Manager to enforce this code. All departments, officials and public employees of the City of Brookings vested with the duty or authority to issue permits shall conform to the provisions of this code and shall issue no permit, certificate or license for any use, building or purpose which violates or fails to conform with conditions or standards imposed by this code. Any permit, certificate or license issued in conflict with the provisions of this code, intentionally or otherwise, shall be void.

164.020 Violations a nuisance. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this code and any use of any land, building or premise established, conducted, operated or maintained contrary to provisions of this code, shall be and the same is hereby declared unlawful and a public nuisance, and the city attorney to the City of Brookings may, upon advice of administrative staff, or upon order of the City Council shall, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in a manner provided by law, and may take such other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or from setting up, erecting, building, maintaining or using any such building or structure or using property contrary to the provisions of this code. The remedies provided for herein shall be cumulative and not exclusive.

164.030 Penalties. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this code shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$200.00 or by imprisonment for a term not exceeding 30 days, or both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this code is committed or continued by such person, firm or corporation, and shall be punishable as herein provided for each such offense.

164.040 Severability and validity. If any chapter, section, subsection, sentence, clause or phrase of this code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this code. The City Council of the City of Brookings hereby declares that it would have passed this, and each chapter, section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more chapter, sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 168  
WIRELESS TELECOMMUNICATIONS FACILITIES

Sections:

- 168.010 Purpose.
- 168.020 Definitions.
- 168.030 Application.
- 168.040 Siting Criteria.
- 168.050 Abandoned Towers.
- 168.060 Severability.

168.010 Purpose.

The purpose of this section is to provide criteria to regulate the siting and operation of wireless telecommunication facilities within the City of Brookings, that meet the provisions of federal law and do not unreasonably discriminate among wireless telecommunications providers.

168.020 Definitions.

Antenna. A device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast or building.

Collocation. The placement of two or more antenna systems or platforms by separate FCC license holders ("providers") on a structure such as a tower, building, water tank or utility pole.

Stealth Characteristics. The use of camouflage techniques to disguise or minimize the visual impact of a tower or antennas (i.e., located in conjunction with a church, steeple, stadium lighting, made to look like a tree or flag-pole, etc.)

Wireless Telecommunication. The transmission, via radio frequency electromagnetic waves, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Wireless Telecommunication Facility. An unmanned facility for the transmission and reception of radio frequency (RF) signals; usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure (tower), antennas or other, transmission and reception devices.

Wireless Telecommunication Provider. A person or company in the business of offering telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Wireless Telecommunications Tower. Means a structure more than ten feet tall, built primarily to support one or more telecommunications antennas.

168.030      Application.

An application for a Wireless Telecommunications Tower shall be made and processed pursuant to Section 140, Conditional Use Permit, of this code, except when in the Public Open Space Zone as allowed in Section 40, Public Open Space (P/OS) District, of this code.

168.040      Siting Requirements.

- A. Height. The maximum tower height shall not exceed 100 feet from the finished grade at the base of the tower.
- B. Front, side and rear yard setbacks. Front and yard setbacks shall be determined by the underlying zone in which the tower is to be placed.
- C. Construction: All new wireless telecommunication towers shall be of a lattice or monopole structure. Where possible new towers will be located in such a manner that they blend in with the background around them, using stealth characteristics.

If the new wireless telecommunications facility is to be collocated on an existing tower, the design of any antenna(s), accessory structures or equipment shall, to the extent possible, use materials colors and textures that will match the existing tower structure to which the equipment of the collocating provider is being attached.

- D. Collocation. New towers shall be constructed so as to allow at least two or more users to collocate on the facility. If collocation is not possible, all applications shall include findings which demonstrate why it is not possible.
- E. Fencing and security. For security purposes, towers and accessory facilities shall be enclosed by a minimum eight-foot (8') sight obscuring fence.
- F. Lighting. No lighting shall be permitted on a tower except as required by the F.A.A.
- G. Advertising/Signs. No advertising or signs of any type are to be placed on the tower at any time except those required or necessary for safety and warnings.
- H. Landscaping. All sites shall be landscaped pursuant to the requirements of the underlying zone. Towers located in the P/OS (Public Open Space) and I-P (Industrial-Park) zones will also include site obscuring landscaping around the security fence. The Planning Commission may require additional landscaping as a condition of approval.

168.050      Abandoned Towers

- A. Wireless telecommunication towers that do not have functioning antennas for a period of six (6) months shall be considered to be abandoned and shall be removed by the operator within 60 days thereafter.

B. Upon written application, prior to the expiration of the six month period, the Planning Commission may, in writing, grant a six-month time extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the Planning Commission subject to any conditions required to bring the project or facility into compliance with current regulation(s) and make it compatible with surrounding development.

168.060

Severability.

That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause or phrase of this ordinance should be declared to be invalid. The same shall not affect the validity of any other section, subsection, sentence, clause or phrase of this ordinance.

Section 172  
PUBLIC FACILITIES IMPROVEMENT STANDARDS AND CRITERIA

## Sections:

- 172.010 General development standards and requirements.
- 172.020 Street standards.
- 172.030 Easements.
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172.010 General development standards and requirements.

- A. The developer shall provide, pay for and install, or cause to be installed, including by way of example and not by way of limitation , water distribution systems, storm drain structures, sewer lines, pumps and appurtenant sewage disposal devices, curbs and gutters, sidewalks and pedestrian walkways, street base course and wearing course materials, bridges, electrical transformers and electrical distribution facilities, underground wiring, street lights, underground communications systems and wiring, gas distribution systems, underground cable TV wiring, fire hydrants, fire alarms, and other fire control devices, street signs, traffic control devices, the preservation or replacement of trees, shrubs, ground cover and other vegetation, structures and provisions to stabilize soil and to prevent erosion, culverts or other devices to enclose open ditches and inhibit access to them by children, devices for the removal of materials and wastes from sewage not amenable to or capable of treatment or reduction by the city's sewage treatment processes or prohibited by state or federal laws or regulations, the



reservation or dedication to the city of utilities easements along log lines and easements for drainage purposes in order to accommodate expected runoffs as determined according to generally accepted drainage accommodation principles, pedestrian easements along boundaries contiguous to streets, vehicular turning and deceleration lanes and easements and the delayed or phasing of development so as to insure that the city can provide necessary municipal services and facilities, and those public improvements necessary to serve the development consistent with the Comprehensive Plan or any specific plan thereof, and such other improvements as required by this code, in accordance with the standards and criteria set forth herein, and shall thereafter warrant the materials and workmanship of said improvements for a period of one (1) year from date of completion and acceptance by the city.

- B. Such improvements as set forth herein shall be considered necessary for the general use of the property owner(s) of the development, the local neighborhood, and the citizens of the community as a whole.
- C. All improvements works shall be at the sole cost and expense of the developer unless otherwise provided in this code.

172.020 Street standards.

- A. Prior to the issuance of a development permit, all parcels of land shown on any development proposal and intended for vehicular use shall have access to an improved street. An improved street shall be defined as a street having an improved paved section. All parcels of land intended for vehicular use by the general public shall be offered for dedication, except as otherwise provided in this code.
- B. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and to the proposed use of the land to be served by the streets. Street determination shall be coordinated with any consideration of solar access to building sites and with need for utility locations. Street classification and location shall conform to the City Comprehensive Street Improvement and Traffic Circulation Plan, Section 4.1, as adopted and amended, or to an adopted neighborhood circulation plan. Where street classification or location is not shown in the Comprehensive Street Improvement and Traffic Plan, the arrangement of public streets shall either:
  - 1. Provide for the continuance or appropriate projection of existing streets in the surrounding area; or
  - 2. Conform to a neighborhood circulation plan pursuant to Section 172.040 of this code.

C. Standard Minimum right-of-way and roadway width. Unless otherwise indicated in the transportation element of the Comprehensive Plan, or in an adopted neighborhood circulation plan, the street right-of-way and roadway widths shall not be less than the minimums shown in the following table:

TABLE 172.020-1  
Standard Minimum Right-of-Way and Roadway Width

<u>Type of street</u>	<u>Minimum Right-of-Way (Curb face to face) Width (feet)</u>	<u>Minimum Roadway Width (feet)</u>
Major Arterial (Highway 101)	100	
(a) With median and curbside		90
(b) Without median and curbside		70
Arterial	80	44
Residential (Collector)	50	36
Residential (Upon which a maximum of 20 dwelling units front and take access)	45	30
Cul-de-sac Radius	45	36
Commercial/Industrial	60-80	44
Alley	20	20

1. The Planning Commission may accept a narrower right-of-way width than those set forth in Table 172.020-1 above, where it can be shown by the developer, to the satisfaction of the commission, that the topography or the small number of lots served and the probable future traffic development are such as to unquestionably justify a narrower width. Increased right-of-way and roadway width may be required where streets are to serve commercial property, or where probable traffic conditions warrant. Additional slope easements may be required for cuts and fills in areas of extreme topography or slopes. Approval or determination of street classification, right of way width and roadway width shall be made by the Planning Commission taking into consideration the zoning designations imposed by the Land Development Code and Comprehensive Plan, the present use and development of the property in the area, the logical and reasonable prospective development of the area based upon public needs and trends, and the public safety, convenience and welfare.

2. In areas where a neighborhood circulation plan has been adopted, the right-of-way and roadway width standards of the adopted neighborhood circulation plan shall be the only alternate standards permitted.
- D. Neighborhood circulation plan standards. When adopted pursuant to Section 172.040 of this ordinance, neighborhood circulation plan, right-of-way and roadway width minimums supersede the standards of Section 172.020.C.
1. Dawson Tract right-of-way and roadway width standards. Street right-of-way and roadway widths shall conform to either the minimum or maximum values shown in Table 172.020-2. The Dawson Tract standards shall apply to all public and private streets in the Dawson Tract area, as defined in the Dawson Tract neighborhood circulation plan.
  2. Dawson Tract Neighborhood Circulation Plan Map. The Neighborhood Circulation Plan map (See Map 172.020-1) is to be used in conjunction with the Neighborhood Circulation Plan standards in Table 172.020-2. In the event of a conflict between the map and the table of standards, the table shall govern.
    - a. The Neighborhood Circulation Plan offers alternative right-of-way and roadway widths for the main loop road of the Dawson Tract system (Dawson Road (North), Dawson Road (West), the Skyline-Passley connection, and Passley (See Table 172.020-2). Pacific Heights (Dawson South), Shorewood Terrace, Ridgeway Street, and Skyline Drive are already developed to the standard minimum (See Table 172.020-1). North of Dawson Road North, Blueberry Drive (portion) and Holmes Court are also developed to the standard minimum.
    - b. For the area within the Dawson Road/Skyline/Passley loop, Type A and Type B cul-de-sac access streets are shown conceptually for single owner sites (See Map 172.020-3). At sites where Type A or Type B access is shown serving properties with two or more tax lots, the location is required, as shown, subject to amendment per Section 172.040. Also see Section 172.035 for development options associated with new access roads serving more than one property owner.
    - c. For the area north of Dawson Road North, a Holmes Drive-Blueberry Lane loop is anticipated. For determination of the Holmes Drive, Blueberry Lane loop right-of-way and roadway widths, an amendment to the Dawson Tract Neighborhood Circulation Plan Map will be required, per Section 172.040. In addition, Lane, Place and Private Drive access shall be developed as required to serve future property

divisions. Right of way and roadway widths, and location of these future streets shall be approved by the Planning Commission as part of tentative plan approval. Approval shall be determined by the estimated average daily traffic (ADT), right-of-way and roadway widths shown in the Dawson Tract Right-of-Way and Roadway Widths Table 172.020-2.

- d. For "landlocked" tax lots located to the east of Passley Road, Lane, Place and Drive access in some combination will be required for service in order to further develop these sites, although no location is shown on the Neighborhood Circulation Plan map. Access location, right-of-way, and roadway width will be approved by the Planning Commission as part of tentative plan approval. Approval shall be determined by the estimated average daily traffic (ADT), right-of-way and roadway widths shown in the Dawson Tract Right-of-Way and Roadway Widths Table 172.020-2. (see next page)

**TABLE 172.020-2**  
**Dawson Tract Right-of-Way And Roadway Width**

<u>Street Name Or Type</u>	<u>Estimated ADT+</u>	<u>Min/Max Right of Way Width (FT)</u>	<u>Min/Max Roadway (curbface to curbface) Width (Ft)</u>	<u>Minimum Sidewalk Width (FT)</u>	<u>Curbs Square Curb (SC) Rolled Curb (RC) Gutter (GT) Gravel Shldr (GS)</u>
Dawson Rd. (North•)	1400	50	28*	4-Both sides Park on north	SC/GT
Dawson Rd. (West•)	800	50	26**	4 - East Side	SC/GT
Pacific Heights••		50	36	5 - Both side	SC/GT
Shorewood Terrace••		50	36	5 - One Side	SC/GT
Skyline Dr.••		50	36	5 - Both sides	SC/GT
Ridgeway St.••		50	36	5 - Both sides	SC/GT
Passley R.	800	50	26**/30*	4 - Both sides	SC/GT
Skyline/Passley Connector	800	50	26**/30*/36	5 - Both sides	SC/GT
Holmes/Blueberry Loop (Future)					
Type A (cul-de-sac) 50 Lot maximum 750 Ft. maximum length	400	45	24**/30*	4 - One side	RC
Type B (cul-de-sac) 12 Lot maximum 400 Ft. maximum length	100	45	20**/30*	4 - One side	RC
Cul-de-sac radius or hammerhead dimensions	See Map 172.020-3	See Map 172.020-3	N/A		
Private (private drive) 6 Lot maximum	60	20***	N/A		GS

• Existing, improved one side only.

•• Existing improved both sides.

\* Parking one side only. Lots serviced by no-parking side shall provide 6 off-street parking spaces in parking bays or on each lot. Add 1500 square feet to minimum lot size. (See parking sketch 172.020-3)

\*\* No on-street parking. All lots serviced by no parking streets shall provide 6 off-street parking spaces in parking bays or on each lot. Add 1500 square feet to minimum lot size. (See parking sketch 172.020-4)

\*\*\* For properties landlocked, or impacted by steep slopes, geological or soil hazard, or unusual parent parcel dimensions. No on street parking permitted. Lots serviced by Drives shall provide six (6) off street parking spaces in parking bays or on each lot. Add 1500 square feet to minimum lot size. (See parking sketch 172.020-3).

+ ADT = Average Daily Traffic, (for mixed family/retirement area, computed at 8 ADT per dwelling unit).

Map 172.020-1

Dawson Tract Neighborhood Circulation Plan Map

Map 172.020-2

Dawson Tract Neighborhood Circulation Plan  
Parking Examples

Parking Bays

Parking on Lots

Map 172.020-3

Dawson Tract Neighborhood Circulation Plan  
Turnaround Options For Type A and Type B Cul-De-Sacs

- E. Frontage roads. When any parcels front on a major or arterial street, the Planning Commission may require the developer to dedicate and improve a frontage road at the front of the parcel to serve the resulting lot(s).
- F. Non-access and planting strips. When the rear side of any lots border any major or arterial street, the Planning Commission may require the developer to execute and deliver to the city an instrument deemed sufficient by the city attorney prohibiting the right of egress and ingress to the lots across the right-of-way line of the street. When the street is a major state highway or arterial, the developer may be required to dedicate and improve a planting strip adjacent to said highway or arterial street.
- G. Street names. All street names shall be approved by the Planning Commission for conformance with the established pattern and to avoid duplication and confusion.
- H. Alleys. When any lots are proposed for commercial or industrial usage, alleys at least 20 feet in width shall be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved.
- I. Reserve strips. Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.
- J. Street alignment. As far as practical, streets other than minor streets shall be in alignment with existing streets by continuation of the center line thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet. In areas with an adopted neighborhood circulation plan, alignment shall conform with the adopted plan.
- K. Future extension of streets. When necessary to give access to or permit a satisfactory future division or development of adjoining land, a public street shall be extended to the boundary of the development and the resulting dead-end street may be approved without a permanent turnaround provided a temporary turnaround is constructed. A reserve strip or street plug may be required to preserve the objective of a street extension.
- L. Street intersection angles. All streets within or abutting a development shall intersect one another at an angle as near to a right angle as is practicable in each specific case unless otherwise necessitated by topographical conditions or other pre-existing conditions.

- M. Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, or sub-standard, or not developed to the standards of an adopted neighborhood circulation plan, additional right-of-way shall be provided at the time of development, and improvements shall be made to full city standards or to the standards of an adopted neighborhood circulation plan as a condition to issuance of a development permit. If the existing street is not improved to the ultimate width and other standards required for streets, the abutting portions of said street shall be improved to such standards by the construction of a sidewalk, curb and gutter along the side adjacent to the development, except that, in areas with an adopted Neighborhood Circulation Plan, only the frontage improvements called for in the Plan, and also by paving the roadway from said curb to 12 feet beyond centerline or to such lesser distance beyond centerline deemed necessary to provide safe and adequate paved roadway for two-way vehicular traffic.
- N. Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the project, when in conformity with the other requirements of this code, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is developed. Whenever a half street is adjacent to a tract to be developed, the other half of the street shall be planned within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets. Notwithstanding the above, in areas with an adopted Neighborhood Circulation Plan, the minimum total paved width of a half street shall not be less than twenty (20) feet paving edge to paving edge or to curbface. The first developer responsible for the construction of a new street or streets shall be responsible for the construction of a required sidewalk and if the developer chooses the minimum street standard he may be required to dedicate additional right-of-way to accommodate the sidewalk and the minimum paved width of 20 feet.
- O. Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and may be longer in cases where unusual circumstances exist. A cul-de-sac shall terminate with a turn-around as specified in Table 172.020-1 above, and a minimum corner radius of 20 feet is required at curb returns. In areas with an adopted neighborhood circulation plan, cul-de-sac length and design shall conform to the adopted plan.
- P. Curves. Center line radii of curves shall not be less than 300 feet on arterials, 200 feet on collectors, or 100 feet on residential streets, and shall be designed to an even 10 feet.
- Q. Grades. Grades shall not exceed eight (8) percent on arterial streets, ten (10) percent on collector streets, or fifteen (15) percent on residential streets. Maximum grade within 100 feet of intersections shall not exceed four (4)



percent. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept steeper grades. No street grades shall be less than 0.5 percent grade.

- R. Curb ramps. Curb ramps for the physically handicapped shall be placed at each corner or crosswalk. The slope shall be no more than one (1) in eight (8), width not less than forty-eight (48) inches with sides flared twenty-four (24) inches. Vertical level changes greater than 1/2 inch will not be permitted.
- S. Major arterial. Major arterials without medians, shall be designed so that separate acceleration and deceleration lanes of a minimum width of 12 feet will be provided.
- T. Intersection radius. Intersections of streets with fewer than four (4) moving lanes of traffic for each street shall have a corner radius at the right-of-way line of not less than 20 feet. Intersections of streets which have or are planned to have, four (4) or more moving traffic lanes for each street shall have a corner radius at the property line of not less than thirty (30) feet. The city engineer may approve exceptions up to five (5) feet less in order to match exiting conditions or provide desired design controls.
- U. Private streets. A private street is permitted only if provisions are made to assure private responsibility for future maintenance. Unless otherwise specifically authorized as part of a street plan or adopted neighborhood circulation plan, a private street shall comply with the same standards as a public street. A street held for private use shall be distinguished from public streets and any reservations or restrictions relating to the private street shall be described in the land division documents and the deed records.
- V. Traffic control devices. Whenever, as the result of additional traffic generated by a proposed development, the city engineer determines the need for a traffic signal or regulatory sign, such determination being based on the Manual of Uniform Traffic Control Devices, the recommendation to the Planning Commission shall be included as a part of the staff recommendation. If approved by the Planning Commission, the developer shall be responsible for installing said devices and signs, or participate on a pro-rata basis in a local improvement district.
- W. Cross slopes. Cross slopes for the purpose of roadway drainage usually fall in both directions from the centerline except where super elevation of curves directs one side of the roadway. Cross slopes for paved roadways shall be approximately 2% from centerline to shoulder. Cross slopes on shoulders should be somewhat greater than that of the roadway. Paved shoulders shall be sloped away from the centerline at 4-6%. Gravel and turf shoulders shall be sloped at 4-6% and 6-8% respectively.

- X. Sight distance. Adequate sight distance allowing the motorist time to respond to obstructions in the roadway and other vehicles is essential for safe travel. Sight distances hindered by horizontal and vertical curves in the roadway, or any other sight obstruction, shall not limit sight distances to less than 350 feet for arterials, 275 feet for collectors, and 200 feet for local streets.

[Section 172.020 amended in its entirety by Ordinance No. 94-O-446.U, effective July 26, 1994]

### 172.030 Easements.

- A. Public utility easements. Easements for sewers, drainage, water mains, public utility installations, including overhead wire, and other like public purposes shall be dedicated, reserved or granted by the developer in widths not less than five (5) feet along all lot lines abutting a street, on each side of rear lot lines and in planting strips wherever necessary, or as required by utility companies and approved by the City Manager. As-builts shall be prepared to locate existing utilities and improvements.
- B. Water course easements. If a subdivision is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose.
- C. Pedestrian easements. The Planning Commission may require, in order to facilitate pedestrian access from streets or lots to school, parks, or other nearby streets, or from off-street parking areas, perpetual, unobstructed pedestrian easements. For areas with an adopted Neighborhood Circulation Plan, such pedestrian easements, if any, shall be shown on the neighborhood circulation plan. Within the easement, a sidewalk of at least five (5) feet in width shall be constructed, or to a width as shown on an adopted neighborhood circulation plan. Adequate lighting may also be required if deemed necessary for public safety and convenience. [Section 172.030.C amended by Ordinance No. 94-O-446.U, effective July 26, 1994]
- D. Slope easements. The Planning Commission may require a perpetual, unobstructed easement adjacent to a public right-of-way where the slope of the land is such that earth movements might damage a public right-of-way and where the natural vegetative cover shall not be disturbed.

### 172.035 Shadow Platting

- A. Lots proposed for development or division and larger than the minimum lot size such that further lot division is possible, the applicant shall:
1. Show future lot divisions as a dashed line on the Site Plan or Tentative Plan for a Partition, Subdivision or PUD (The "Shadow Plat").

2. State on the Site Plan or Tentative Subdivision Plan that no further lot division will be pursued.
- B. If option 172.035.A-2 is chosen, a statement on the final plat of Partition/Subdivision plats shall be required as a condition of approval by the city.
  - C. If option 172.035.A-1 is chosen, for a Tentative Plan for a Partition, Subdivision or PUD, future lot divisions shall be shown per map 172.035-1(b). For a Building Permit/Site Plan review, future lot divisions shall be shown per Map 172.035-1(a). Drive locations, building setbacks from existing and future lot lines, existing and future utility easements and future rights-of-way shall all be shown on the site plan submitted for city review.
  - D. Future lot divisions and proposed access shall conform to the Comprehensive Street Improvement and Traffic Circulation Plan, Section 172.020 of this Ordinance, and to an adopted neighborhood circulation plan provided such plan includes the proposed project site area.
  - E. Development or division of a property that requires a shared access with one or more properties shall conform to an adopted neighborhood circulation plan. Platting and development can be simultaneous, or may be phased over time. Phased development shall be proposed at the time of site plan or tentative plan submittal of a partition/subdivision/PUD for city review. Subsequent development and/or property division shall conform to the phasing and development conditions as approved by the city. Map 172.035-2 shows a typical phased development sequence, and is intended as a guide.

[Section 172.035 added by Ordinance No. 94-O-446.U, effective July 26, 1994]

172.040 Neighborhood circulation plan.

- A. All development shall comply with an adopted neighborhood circulation plan provided such plan includes the proposed project site area. If the neighborhood circulation plan does not include the proposed project site area, it shall be the developer's responsibility to demonstrate, prior to approval of a development permit, that development of the project site will not impair or preclude the future development of a comprehensive neighborhood circulation system.
- B. Adoption of neighborhood circulation plans. Neighborhood circulation plans shall be developed for appropriate areas of the city and urbanizable areas and shall be adopted as amendments to the Public Facilities Element of the Comprehensive Plan. Such plans shall identify the street classification,

projected ADT, existing condition, design criteria and right-of-way and roadway width of all existing and projected street systems within the neighborhood circulation plan area. [As amended by Ordinance No. 94-O-446.U, effective July 26, 1994]

- C. Revision of a neighborhood circulation plan. An adopted neighborhood circulation plan may be revised or amended in the manner set forth in this code for Comprehensive Plan amendments. [As amended by Ordinance No. 94-O-446.U, effective July 26, 1994]

172.050 Street lights. Street lighting shall be provided for all developments within the city, and shall be provided to the following standards:

- A. Location, new streets. As part of a new street development, street lighting shall be installed at intersections and at a maximum distance of 220 feet apart with the following exceptions:
1. A cul-de-sac where the terminus is less than 150 feet from the nearest lighted intersection; otherwise, a street light shall be installed at the end of a cul-de-sac.
  2. For streets serving industrial areas, there shall be a minimum of one (1) street light at each intersection.
- B. Location, existing streets. Development having 200 feet or more of frontage on an existing street shall install a minimum of one (1) street light for the first 200 feet, plus one (1) street light per 220 feet of additional frontage. A development with less than 200 feet of frontage on an existing street shall enter into a deferred improvement agreement for future street light installation.
- C. Service. Nearest facility carrying 120 volts secondary and controlled by individual photoelectric control devices. All services shall be underground.
- D. Materials and height. Galvanized steel, concrete, aluminum or fiberglass, or on existing wood distribution facilities, 25 to 30 feet in height.
- E. Design standards for roadway average maintained illuminance. The following illuminance values represent the lowest average maintained values that are currently considered appropriate for the following roadways (measured in footcandles):

<u>Classification</u>	<u>Commercial areas</u>	<u>Industrial areas</u>	<u>Residential areas*</u>
Arterial	2.0	1.4	1.0
Collector	1.2	0.9	0.6
Residential	0.9	0.6	0.4

\*Mercury vapor luminaires only

- F. Alternate Standards. Notwithstanding 172.050 A through 172.050 E, above, coastal road development or other development where light pollution may be a concern in residential zones may propose alternative lighting standards, provided that the level of illuminance resulting from the proposed alternate standards is equivalent to the level of illuminance provided by the typical standards, as provided in Sections A through E, above. The request for alternate standards shall be accompanied by calculations demonstrating equivalent illuminance by an engineer registered in Oregon, and must be approved by the City Engineer. Power for and maintenance of alternate standards shall be the responsibility of the homeowners whose property is served by the alternate standards, through the means of a Homeowners Association, formed in accordance with Oregon law. The Homeowners Association shall hold the City harmless from damage claims arising from negligence on the part of the Homeowners Association in supplying power to or maintenance of said alternate standards. The City Attorney must review and approve the bylaws, covenants, codes and restrictions of the Homeowners Association for the proposed alternate standards as a condition of final plat or site plan review approval. [As added by Ordinance No. 94-O-446.U, effective July 26, 1994]

172.060 Sidewalks.

- A. Sidewalks shall be required for all proposed developments along all streets, except as follows:
1. Where a residential building site fronts on an unimproved residential street if the development qualifies for deferral of street frontage improvements, pursuant to Section 172.070.
  2. In the case where a proposed development provides suitable alternative pedestrian routes and approved by the Planning Commission.
  3. In the case of hillside developments in which the Planning Commission may waive the requirement for sidewalks on both sides of each street to allow sidewalk installation on only one (1) side.
- B. Sidewalks shall be a minimum of five (5) feet in width and said width does not include the curb width.

172.065 Reimbursement procedures. Whenever an original developer, as defined herein, shall:

- A. Provide, pay for and install, or cause to be installed, any curbs, gutters, sidewalks, pedestrian walkways, street base course and wearing courses, bicycle lanes, street lighting or storm drainage pursuant to the requirement of Section 172.010 of the Brookings Land Development Code generally, and in particular pursuant to Sections 172.020, 172.050, 172.060, 172.080 and 172.100 thereof; and

- B. The original developer is required to provide any of the aforesaid improvements along streets not within the proposed development, or adjacent to parcels or tracts not within the ownership of the original developer, the following provisions and procedures shall apply:
1. For purposes of this ordinance:
    - a. "original developer" shall mean the person, partnership, firm, corporation or other legal entity in whose name the land development to which Sections 172.020, 172.050, 172.060, 172.080 and 172.100 are applicable, or the legal heirs, assigns or successors of said developer;
    - b. "approved costs" shall mean the actual incurred costs of the original developer, as submitted by the original developer in itemized form and approved by the City.
  2. The original developer shall be entitled hereunder to reimbursement of his approved costs of the installation of any curbs, gutters, sidewalks, pedestrian walkways, street base and wearing courses, bicycle lanes, and street lighting and storm drainage along streets not within the proposed development or adjacent to parcels or tracts not within his ownership for a period of ten (10) years from the date the City gives final approval of the incurred costs of the subject improvements.
  3. At the time of development of any tract, parcel or lot not owned by the original developer and adjacent to any of the improvements described in subdivision 2. above, and if the Land Development Code or other ordinance in effect at such time would require the subsequent developer to make any improvements as specified in Section 1.A. for which "approved costs" have been determined, then the City shall assess, as part of the fees chargeable to such development, an amount of money equivalent to the benefit to said property of the previously made improvements. Such assessed charge shall be determined as in the same manner as in the case of a local improvement project for like improvements, and be based upon lineal front footage along the improved street, sidewalk or way.
  4. The City shall collect the assessments made hereunder and tender the same to the original developer as said reimbursement, less the actual costs of the City in determining the assessment and administering the involved funds. Notwithstanding any provision in this section, in no event will any Urban Renewal Agency which may be established in the City be subject to any assessments or required to reimburse any monies or approved costs to an original developer.

[Section 172.065 as added by Ordinance No. 91-O-446.C., effective February 27, 1991]

172.070 Street improvements, deferred. Subject to the standards set forth herein, the improvement of existing streets may be deferred to such time as a complete street segment can be improved to city standards. For purposes of this section, a street segment shall be considered as the length of a street between intersections with other streets.

- A. Street improvements may be deferred when the project site complies with the following criteria:
1. If more than 50 percent of the street segment's frontage and area having frontage on the segment is unimproved; or,
  2. If more than 50 percent of the area having frontage on the street segment is developed and less than 50 percent of the street segment is improved.
- B. When street improvements are deferred, the developer shall enter into a Deferred Improvement Agreement for each project lot fronting the street segment and record said agreement with the Curry County Recorder's Office. Said agreement shall run with the land and require that the property owner agree to the performance of the work deferred by conformance with one of the following options:
1. Work performed by property owner. The owner of the property subject to a deferred improvement agreement shall be responsible for performance of the work identified in said agreement and for obtaining contractors therefor. The owner shall cause satisfactory plans and specifications for the improvements to be prepared and to submit said plans and specifications to the city public works department for approval prior to commencement of the work to be done. Such work shall be done in accordance with city standards in effect at the time the improvement plans are submitted for approval. Owner agrees to make payments required by the city including, but not limited to, engineering deposits, permit fees and inspection fees. Owner shall notify the city public works department at least 48 hours prior to the start of work.

Prior to approval of improvement plans by the city, the owner may be required to execute and deliver to the city a performance bond in an amount and form acceptable to the city, to be released by the city in whole or in part upon the city's final acceptance of the work performed. If the owner disagrees with the requirements set forth for installation of improvements as provided in this section, he shall, within 30 days of the date the notice from the city engineer was mailed, request a review of the requirements by the City Council. The decision of the City Council shall be binding upon both the city and the owner.

2. Construction as local improvement to be assessed against property. Recordation of a deferred improvement agreement shall be equivalent to a consent to the establishment of a local improvement district. If the

property owner does not complete the improvement pursuant to Section 172.070, B., 1, above, the city may do the work as a local improvement project following the procedures established by ordinance for such projects and assess the cost against the property specially benefitted. Permission to enter onto the property of the owner is granted to the city or its contractor as may be necessary to construct such improvements.

3. Activation of deferred improvement agreements. When the city engineer determines that the reason(s) for the deferment no longer exist(s), he/she shall notify affected owners in writing. The notice shall be mailed to the current owner or owners of the land as shown on the latest adopted county assessment roll. All or any portion of said improvement may be required at a specified time. Each affected owner shall participate on a pro rata basis of the cost of installation of the improvements.

172.080 Street names and signs.

- A. The name of any public or private street shall not duplicate or be so similar as to be confused with the name of any existing street within Curry County.
- B. Street names and traffic control signs shall be installed as required by the city. Prior to the issuance of any development permit, the developer shall pay a street sign fee as required to equip all street intersections with sign posts, street name signs and traffic signs pursuant to the standards and specifications adopted by the city and/or the Oregon Department of Motor Vehicles and Department of Transportation.

172.090 Traffic impact report. The traffic impact report is designed to identify the traffic impacts and potential problems which are likely to be caused by a proposed use, and to identify all improvements required to insure safe and efficient pedestrian and vehicular ingress to and egress from a proposed development, to maintain an adequate street capacity, and to eliminate hazardous conditions and situations.

- A. Applicability. A traffic impact report may be required by the city as necessary to determine a development impact on the adjacent street system. When required, the traffic impact report shall be prepared by a registered engineer and submitted to the city prior to action on a project authorization for which the traffic impact report was required.

172.100 Bicycle routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the city may require the installation of a separate bike lane either within or adjacent to streets.

- A. Standards. Bicycle routes shall be provided according to the following standards:



1. Curbed street with parking

2. Curbed street without parking

3. Street or highway without curb or gutter

4. Bicycle lanes approaching motor vehicle right-turn-only lanes

5. Bicycle path on separated right-of-way

172.110 Driveway approaches. The location and width of access driveways onto public streets shall be subject to the following design standards and criteria:

A. Minimum/maximum approach width, drive separation:

<u>Use</u>	<u>Minimum Width</u>	<u>Optimum Width</u>	<u>Maximum Width</u>	<u>Separation between drives</u>	
Single and two family dwellings	10'	15'	24'*	5'	
All other residential	15'	24'	32'	32'	22'
Commercial	24'	24'	32'	32'	22'
Industrial	24'	30'	48'	48'	22'

\* For up to two (2) parking stalls. For each additional parking stall within a garage that faces the street from which it is accessed, an additional 12 feet of width may be added.

[Section 172.110.A as amended by Ordinance No. 94-O-446.S, effective April 12, 1994]

- B. Distance from intersection. Driveway approaches shall be positioned from the intersection of a residential street a distance of no less than 20 feet and 100 feet for collector and arterial streets, provided however that such distances may be reduced by the city engineer where impractical due to lot configuration and/or width.
- C. Number of accesses permitted. Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe traffic circulation and carrying capacity of the street. Except as further restricted by this section, properties of less than 100 feet of frontage shall be limited to two (2) access lanes per frontage which may be together or separate and properties exceeding 100 feet of frontage shall be limited to two (2) access lanes per each 100 feet of frontage.
- D. Double frontage properties. Properties which have frontage on more than one street may be restricted to access by the streets of a lower classification.
- E. Joint access encouraged. Common accessways at a property line shall be encouraged and in some instances may be required in order to reduce the number of access points to streets. Construction of common accessways shall be preceded by recording of joint access and maintenance easements.

172.120 Underground utilities.

- A. Utility lines, including, but not limited to, electricity, communications, street lighting and cable television shall be required to be placed underground. All such service and facilities shall be located in a public utility easement with a junction box designed to carry the service drops underground to each serviced building or structure for each lot of the development. The developer shall pay any necessary cost or make other arrangements with each of the public utility companies involved for the installation of the underground facilities and for the relocation of existing overhead facilities on the property. All such installation shall be in conformance with the respective utility company's operating rules and regulations on file with and approved by the public utilities commission.
- B. The following exceptions shall apply to the requirements of Section 172.120, A., above:
  - 1. Transformers, pedestal mounted terminal boxes, meter cabinets and concealed ducts may be situated above ground if they are solely for the purpose of providing service within the development; and

2. Poles supporting electricity transmission lines may be situated above the surface of the ground if the voltage carried by such lines exceed 12KV and such lines are not connected to any distribution line situated within the development and do not in any way serve any part of the development; and,
3. Poles supporting street lights, and the electrical lines within said poles.

172.130 Service extension. Within the city limits, and as a condition of development permit approval, basic urban services (water, sewer, storm drainage and streets) shall be extended along the full length of all portions of the subject property fronting a public right-of-way. Basic urban service extension shall be consistent with the requirements of this Land Development Code.

172.140 Sanitary sewer system. Sanitary sewers shall be installed by the developer in public street rights-of-way, private streets or public easements to serve each new development, and to connect the development to existing mains or install additional mains and laterals as necessary to adequately serve such development.

- A. Sanitary sewer design. All sanitary sewer facilities shall be installed to grades, standards, location, lengths and sizes as approved by the Department of Environmental Quality and the city engineer. Such design shall taken into account the capacity and grade to allow for needed extension beyond the proposed use or development. If required sewer facilities installed by the developer will directly benefit and serve property outside the development, whether immediate or future, the following arrangements will be made to equitably distribute the cost.
  1. If the area outside the development to directly benefit from and be served by the sewer line has reached a state of development to justify immediate sewer installation and connection, the City Manager will recommend that the City Council establish a local improvement district and the project constructed under an assessment district, with such arrangement with the developer as is equitable to assure financing the developer's share of the construction project.
  2. If the installation is not accomplished as an assessment project, the city will reimburse the developer an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the development for a period of 10 years from the time of installation of the sewer. The amount of excess costs to the developer shall be as determined at the time of issuing the development permit, considering then current actual construction costs.

172.150 Storm drain system.

- A. Storm drainage facilities shall be designed and installed by the developer to provide proper drainage for each new development and to connect the development to drainage ways or storm sewers outside the development that have an adequate capacity to accept such storm waters. If an upstream area discharges through the property proposed for development, the drainage system shall provide capacity to receive the flood water discharge from the upstream area.
- B. If the proposed development, or the ultimate development that the proposed development will serve, will cause an increase in floodwater flow and the downstream drainage system is not sufficient to receive the increase, provisions shall be made to increase the downstream capacity.
- C. Storm drainage system design. Design of the new drainage system within the development, as approved by the city engineer, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the development and to allow extension of the system outside the development. The storm drainage system shall consist of mains of not less than 12 inches in diameter, together with such manholes, catch basins, laterals and other structures, and at such grades, as required by the city engineer to prevent standing or flooding storm waters within and outside the development boundaries.
- D. If the city engineer determines that oversizing drains, laterals or other facilities for storm drainage is necessary to be installed by the developer, which oversizing can or will benefit the immediate or future use of property outside the limits of the development, the developer shall install such facilities in excess of the requirements of his development alone, and the city shall reimburse the developer the excess of costs of the oversize or additional facilities to the extent available within the Storm Drain, Systems Development Charge Fund of the city.

172.160 Water system. Water lines and fire hydrants serving each building site in the development shall be installed by the developer in public street rights-of-way, private streets or public easements. The lines shall be connected to existing mains, or the developer shall install additional mains as necessary to adequately serve such development.

- A. Water system design. Water system design shall take into account the need for extension beyond the development and to adequately grid the water system. All water facilities shall be installed to standards, location, lengths and sizes as approved by the city engineer. Actual capacity tests, if needed, shall be run by the city fire marshal at the expense of the developer.

- B. If required water facilities installed by the developer will directly benefit and serve property outside the development, whether immediate or future, the city will reimburse the developer an amount estimated to be the proportionate share of the cost for each connection made to the water main by property owners outside the development for a period of 10 years from the time of installation of the main. The amount shall be determined at the time of issuing the development permit, considering then current construction costs. An alternative to this method of equitably distributing the cost of such water main extension outside the proposed development may be pursuant to Section 172.140, A, 1, above.

172.170 Improvement plans.

- A. The developer shall cause plans, on mylar, and specifications for all public improvements to be prepared by an engineer registered in the state of Oregon in accordance with the design and improvement standards and specifications of this code, which plans and specifications shall be submitted to and approved in writing by the city engineer prior to commencement of improvement work and prior to issuance of a development permit. All improvement work shall be inspected and approved by the city engineer as to conformance with city requirements and standards. Improvement drawings shall include, but not be limited to typical cross sections and proposed finish grades of all streets, together with a profile showing the relation between finished grade and existing ground elevations, and the lengths, sizes, grades, and type of all pipes, culverts and other structures.
- B. As-built drawings. Before the city will accept an improvement project that shall become a city maintained improvement and/or facility, the developer's engineer shall provide the city with a mylar drawing showing the as-built improvements along with two (2) copies of said as-built drawings.
- C. The developer shall pay a security deposit of \$300.00 to the city to cover cost of the city engineer's review of the improvement plans and specifications, and any unused portion of the deposit will be refunded to the developer. If the review costs exceed the \$300.00 deposit, the developer will be responsible for the full payment to the city."

172.180 Performance bond and improvement agreement.

- A. If all required improvements as specified in the conditions of a development permit approval have not been satisfactorily completed before the development permit is filed for approval, the developer shall enter into a written agreement with the city that all improvement work shall be completed, within a specified time period, in accordance with this code and the applicable approval improvement plans and specifications. The developer shall warrant the materials and workmanship of the improvements for a period of one (1) year from date of acceptance by the city. Such form and content of the agreement shall be as stipulated in Section 80.080, B.

- B. The developer shall file with the agreement to secure full and faithful performance thereof, a performance bond as stipulated in Section 80.080, C.

172.190 Public facilities construction standards.

- A. The standard specifications for construction, reconstruction or repair of streets, sidewalks, sewers, water mains and other public improvements within the city of Brookings are as contained in the document entitled "General Engineering Requirements and Standard Specifications for Street, Storm Drain, Sewer and Waterline Construction, City of Brookings, Curry County, Oregon" and dated August, 1988. Said document is adopted hereby and shall by this reference be made a part of this code and incorporated herein for all public facility work authorized by and pursuant to this code."

Section 176  
LAND DIVISIONS

Sections:

- 176.010 Purpose.
- 176.020 Applicability.
- 176.030 Procedures.
- 176.040 Lot line adjustments.
- 176.050 Minor partitions.
- 176.060 Major partitions and subdivisions.
- 176.070 Major partitions and subdivisions - final map or plat approval.
- 176.080 Lot design standards.

176.010 Purpose. The purpose of this section is to provide procedures, standards and criteria for the processing and creation of lots or parcels for residential, commercial and industrial uses consistent with state statutes, and provisions and standards of this code.

176.020 Applicability. The provisions of this section apply to all lands within the city limits which are proposed to be sold as lots or parcels and units or interests in land. Unless otherwise provided for in this code, no land interests in land, unit ownership, or tax segregation shall be created for sale prior to approval of a minor partition, major partition or subdivision.

176.030 Procedures. The following procedures are intended to expedite land divisions which are minor in scope and impact, and to insure thorough public review and comment for land division which may have greater neighborhood impact to existing and future public facilities and services.

- A. Preapplication conference. Prior to submitting a preliminary map or plat for review, the applicant may request a preapplication conference with city staff, unless the applicant and City Manager, or his designee, agree that the conference is not needed.
  - 1. The purpose of the conference is to acquaint the applicant with the substantive and procedural requirements of this section, to provide for an exchange of information regarding applicable elements of the Comprehensive Plan and development code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.
  - 2. Any residential, commercial or industrial development project, minor, major partition or subdivision requires a preliminary sketch or conceptual plan to be reviewed in the preapplication conference.

176.040 Lot line adjustments. A complete application together with all required filing materials shall be submitted to the City Manager or his designee prior to review of the request.

- A. Application and submittal requirements. Applications for a lot line adjustment shall conform to the submittal requirements for minor partition as provided in Section 176.050, B., of this code.
- B. Criteria for approval. The City Manager or his designee shall approve, approve with conditions or deny the request based upon the following criteria:
  - 1. An additional lot is not created by the lot line adjustment.
  - 2. An existing parcel is not reduced in size below the minimum lot size established by the applicable zoning district.
  - 3. The adjusted lot configuration does not result in a substandard condition relative to Section 100 and other applicable site development standards of this code. (Section 176.040.B.3 as amended by Ordinance 96-O-446.FF, effective June 9, 1999.)
  - 4. Failure to provide any information required by this code shall not constitute a waiver to any standards, criteria or requirements of this code.
- C. Filing an approved lot line adjustment. The applicant shall file the resulting deeds and/or descriptions and/or approved map with the Curry County recorder and assessors' office and the approval shall become null and void if not filed and recorded within 30 days of final approval.
- D. Appeals. The final action of the City Manager or his designee may be appealed pursuant to Section 160 of this code. [As amended by Ordinance No. 89-O-454]

#### 176.050 Minor Partitions

- A. The property owner or his authorized agent may make application for a Minor Partition by filing an application, on a Land Use Application form with appropriate fees, with the City Manager or his designee for review by the Site Plan Committee pursuant to Section 80.030.B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by three (3) copies of the minor partition map containing the following material:
  - 1. Drawn in ink, suitable for reproduction (mylar material), on a map no smaller than 11" x 17". [As amended by Ordinance No. 89-O-454]
  - 2. North arrow, scale (appropriate to the are involved and sufficient to show detail of the plan and related data, such as 1" = 30', 1" = 50', or 1" = 100') and date.



3. Name, address and telephone number of each of the following: property owner(s), partitioner, preparer of the map, surveyor, and date of survey.
4. Streets: names, locations, pavement widths, rights-of-way, both existing and proposed, and access points.
5. Easements: locations, widths, and purpose of all existing and proposed easements.
6. Utilities: location and size of all existing and proposed storm drains, sewer mains, water mains, and utility poles.
7. Natural features: location and extent of creeks, streams, marshes, and wooded areas.
8. Flood areas: show location of 100-year flood plain and other areas subject to ponding.
9. Slope: contour map with contour intervals of five (5) feet or less and indicating average slope to determine compliance with the provisions of Section 100, Hazardous Building Site Protection/Hillside Development Standards, of the Land Development Code. (Section 176.050.A. 9 as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
10. Drainage: show direction of drainage. (Section 176.050.A.10 as amended by Ordinance 99-O-446.FF, effective June 9, 1999)
11. Lot dimensions: existing and proposed lot lines and their dimensions.
12. Lot size: existing and proposed lot size in square feet or acres.
13. Existing uses: location and outline of existing buildings to remain on the property with distances in feet to new lot lines created by the proposed partition.
14. Location of the parcels by legal metes and bounds description and a statement by the preparer that the descriptions have been prepared in accordance with the public record, and that the map thereof has been prepared to scale.
15. Supplemental information: deed restrictions proposed, if any.
16. A signature by the property owner that guarantees to the city that all information shown on the map is accurate and correct, and the applicant accepts responsibility for same.

17. A statement by the city finance director that all city liens and assessments on the property have been paid, or that the application has been made to the city to segregate assessments.
  18. If the proposed partitioning results in the creation of lots greater than twice the minimum lot size allowed, indicate by dashed lines how future divisions and streets can be created.
  19. The approving authority (Planning Commission) certificate shall contain a statement that acknowledges compliance with all conditions of development permit and state statutes, and such compliance shall be certified by the signature of the chairman of the Planning Commission affixed thereto.
- B. Planning Commission authority. The Planning Commission shall have the authority to approve, approve with conditions or deny the request, based upon the following criteria:
1. Conformance with the Comprehensive Plan, and applicable development standards of this code, and state and federal laws.
  2. Development of any remainder of property under the same ownership, if any, can be accomplished in accordance with this code.
  3. Adjoining property under separate ownership can either be developed or be provided access that will allow its development in accordance with this code.
  4. The ability to take access from the frontage road pursuant to the provisions of Section 132.060 of this code. [As added by Ordinance No. 91-O-446.F, effective September 10, 1991]
  5. Conditions necessary to satisfy the intent of the Land Development Code and Comprehensive Plan can be satisfied prior to final approval.

[Section 176.050, A and B as amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

- C. Submittal requirements; final map approval. Any changes or
- D. modifications resulting from preliminary map review shall be incorporated and submitted as the minor partition final map, along with additional supplementary information required.

- E. Filing an approved final map. After obtaining all required approvals and signatures, the developer shall:
1. File a survey map with the Curry County Surveyor within 90 days of approval and signature of the parcel map by the city of Brookings, and failure to file same within said time period shall render the approval null and void.
  2. File the deeds and/or descriptions resulting from the minor partition approval creating the parcels with the Curry County Assessor's Office within 10 working days of filing the survey map with the Curry County Surveyor.
  3. Within 10 days after filing the survey map with the county surveyor, the owner/developer shall provide the city two (2) blueline prints of the survey map.

[Section 176.050.D.1.2.3. as amended by Ordinance No. 89-O-454]

- E. Appeals. The final action of the Planning Commission may be appealed to the City Council pursuant to Section 156 of this code. [As added by Ordinance No. 89-O-454]

#### 176.060 Major partitions and subdivisions

- A. Subdivision committee. The purpose of the subdivision committee is to determine compliance with the objectives, standards and criteria of the Land Development Code and provisions contained herein, and to review all submitted preliminary plat requests for conformance with requirements thereof. Following submittal of the preliminary plat map and requisite filing material, a meeting of the subdivision committee shall be convened at which the subdivider or his representative is invited to attend and participate. Following consultation and discussion, a report shall be prepared by the committee, which report shall include information on zoning in the area and on the location in adjoining streets and property of existing sewer and water mains, culverts and drain pipes, electric conduits, or lines proposed to be used on the property to be subdivided, and invert elevations of sewers at points of proposed connection together with any other data as appears pertinent to the planning commission's review of the preliminary plat.
1. There is hereby created a subdivision committee consisting of the City Manager, Community Development Director, Planning Director, City Engineer, Building Official, Public Works Supervisor, or their designees, and representatives from all affected utilities including, but not limited to, electrical power, communications and cable television, to carry out the duties set forth in subsection B., above.

2. Copies of the preliminary plat shall be submitted to the following additional officials, and they will be given at least seven (7) days to review the plat and submit comments to be included within the subdivision committee report:
    - a. County surveyor.
    - b. County planning department.
    - c. State highway department if the property is adjacent to a state highway.
    - d. The school district if there is indication of school district interest in property development in the area.
- B. Application and submittal requirements. The property owner or his authorized agent may make application for a Major Partition or Subdivision by filing an application, on a Land Use Application form with appropriate fees, with the City Manager or his designee for review by the Subdivision Committee pursuant to Section 176.060.A. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following material:
1. 18 copies of the plat map to be drawn on a sheet not less than 12"x18" by a licensed surveyor.
  2. Scale:     10 acres or less,     1" = 50'  
              11 to 100 acres,     1" = 100'  
              100 acres or more,     1" = 200'
  3. North arrow, date map prepared.
  4. Proposed name - Name cannot duplicate or resemble the name of any other subdivision or partition in Curry County.
  5. Location by section, township, range, and legal metes and bounds description sufficient to define the location and boundaries of the proposed tract.
  6. Name, address and telephone number of property owner(s), preparer of the map, surveyor, and engineers.
  7. A vicinity sketch shown on the plat map at a small scale (i.e., 1" = 400') showing all existing and adjacent subdivisions, streets, tract lines of acreage parcels, names of the recorded owners of parcels of land immediately adjoining the land to be divided and between it and the nearest existing or proposed public road.

8. Boundary lines (to scale) of the tract to be divided.
9. Topographic contour lines having minimum intervals of 5 feet or less and indicating average slope. (Section 176.060.B.9 as amended by Ordinance 99-O-446.FF, effective June 9, 1999.)
10. On parent parcels containing slopes of 15% or greater, a geological report prepared by a certified engineering geologist or a civil engineer registered in Oregon working with a geologist licensed in Oregon. The report shall be prepared pursuant to the provisions of Section 100.030 of this code. (Section 176.060.B.10 as added by Ordinance 99-O-446.FF, effective June 9, 1999.)
11. Streets existing: location, names, pavement widths, alleys and rights-of-way on and abutting the tract. Source of datum shall be indicated on the map and shall be acceptable to the review body.
12. Streets proposed: location, names, right-of-way pavement widths, approximate radius of curves, and grades.
13. Neighborhood circulation plan: show the pattern of future streets as provided in Section 172.040.
14. Easements: locations, widths, and purpose of all existing and proposed easements on and abutting the tract.
15. Pedestrian ways: location and widths of all proposed sidewalks and pedestrian access ways.
16. Natural features: location and direction of flow of all creeks, drainageways, marshes, and significant vegetation (trees over 8" diameter as measured 3 feet from base).
17. Flood areas: location of 100-year flood plain and all other areas subject to seasonal ponding.
18. Utilities: location and size of all existing and proposed sanitary sewer mains, storm drains, water lines, irrigation canals, public utility installations on and abutting the tract.
19. Typical cross-sections of proposed streets, showing all utility improvements proposed within the street right-of-way and adjacent easements at such scale to clearly show the details thereof.
20. Lots and parcels: dimensions and lot sizes (in square feet or acres) and proposed lot and block numbers.

21. Dedication: locations of all areas to be dedicated or reserved for public use, with the purpose, condition or limitations of such reservations clearly indicated.
22. Existing uses of the property including scaled location and present use of all existing structures to remain on the property before platting.
23. Special setbacks: locations of special setback lines.
24. Map title: for a subdivision, title shall be "Subdivision: Preliminary Plat"; for a major partition, title shall be "Major Partition: Preliminary Map".
25. Proposed deed restrictions.
26. Land use tabulation:
  - a. Total site area (in acres and square feet)
  - b. Area dedicated for public right-of-way.
  - c. Net usable site area (in acres and square feet; item [a] minus [b]).
  - d. Average lot size (in square feet; divide number of lots into item [c]).
  - e. Dwelling units per acre (divide number of dwelling units proposed into the total site area; item [a]).
  - f. Maximum dwelling units allowed (divide item [c] by the density allowance of the zoning district within which the proposal is located).
  - g. Actual dwelling units proposed for each phase of the proposed project development.
27. Areas designated for phasing of the project development.
28. Zoning of property.
29. Plat map to be stamped by the registered engineer or licensed land surveyor who prepared same.
30. A land division guarantee issued by a title insurance company in the name of the owner of the land showing all parties whose consent is necessary and their interest in the premises.

31. Findings of fact: In order for the Planning Commission to grant any preliminary plat approval, it must be found, based upon evidence, both factual and supportive, provided by the applicant, that the proposal partition or subdivision is in compliance with the criteria set forth in Section 176.060. A. 1 thru 8.

C. Planning Commission Authority. The Planning Commission shall have the authority to approve, approve with conditions or deny the request, based upon the following criteria:

1. Conformance with the Comprehensive Plan, and applicable development standards of this code, and state and federal laws.
2. Development of any remainder of property under the same ownership, if any, can be accomplished in accordance with this code.
3. Adjoining property under separate ownership can either be developed or be provided access that will allow its development in accordance with this code.
4. Conditions necessary to satisfy the intent of the Land Development Code and Comprehensive Plan can be satisfied prior to final approval.
5. The proposed street plan affords the most economic, safe, efficient and least environmentally damaging circulation of traffic possible under existing circumstances.
6. The proposed name of the subdivision shall be approved by the commission, provided the name does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Curry County, except for the words "town", "city", "place", "court", "addition", or similar words unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name, or unless the applicant files and records the consent of the party who platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed.
7. The proposed name of a street in the subdivision shall be approved by the commission provided it is not the same as, similar to or pronounced the same as the name of an existing street in the same zip code area, unless the street is approved as a continuation of an existing street. A street name or number shall conform to the established pattern for the area.

8. Streets that are proposed to be held for private use shall be distinguished from the public streets on the subdivision plat, and reservations and restrictions relating to the private streets are established.

[Section 176.060, A, B and C as amended by Ordinance No. 93-O-446.N, effective April 20, 1993]

D. Neighborhood circulation plan.

1. Except as provided in subsection D. 2, a neighborhood circulation plan shall be filed in conjunction with an application for a land division, pursuant to Section 172.040. The plan shall show the pattern of future streets from the boundaries of the proposed land division to include other tracts within 200 feet of the proposed land division.
2. A neighborhood circulation plan shall not be required for any portion of an area for which an adopted neighborhood circulation plan has been established, pursuant to Section 172.040. B.
3. The City Council, upon the recommendation of the Planning Commission, may either adopt the neighborhood circulation plan submitted by the applicant, or may initiate a plan for an area for which there is no proposal for a land division which would be incorporated as an amendment to the public facilities of the Comprehensive Plan, pursuant to Section 172.040. B.

E. Phased development of land divisions.

1. When it is the developer's intent to record and develop a subdivision which is only a part of the tract owned or controlled by the subdivider, the Planning Commission shall require a preliminary plat layout for streets in the unsubdivided portion. The layout shall define the location and gradient of all proposed streets and methods of connection to existing streets.
2. If the developer intends to record and develop a subdivision granted preliminary plat approval in phases, the Planning Commission may authorize a time schedule for platting the phases in periods exceeding one (1) year, but in no case shall the total time period of platting all phases exceed five (5) years without resubmitting for preliminary plat approval.

- F. Public hearing. Before preliminary plat approval may be granted by Planning Commission, the proposed preliminary plat shall be considered by the commission in a public hearing. Notice of said hearing shall be given as provided in Section 84. [Section 176-060, Subsection F as amended by Ordinance No. 96-O-446.BB, effective May 7, 1996.]



- G. Conditions. Conditions of approval may be attached to the preliminary plat or map approved by the Planning Commission, but only as required to comply with the applicable provisions of this code, the Comprehensive Plan, state statutes or federal law. All conditions of approval shall be satisfied prior to final map or plat approval.
- H. Appeals. The final action of the Planning Commission may be appealed as provided in Section 156 of this code.
- I. Minor Change. A minor change to an unrecorded subdivision plat map may be allowed through the procedure set forth in Section 116.110 of this Code. [As added by Ordinance No. 92-O-446.J, effective April 7, 1992]
- J. Expiration of preliminary map or plat. The preliminary map or plat approval shall be valid for a period of one (1) year within which final map or plat shall be submitted. An extension of time may be granted, for good cause, by the Planning Commission if such extension is authorized by the commission prior to expiration of the one (1) year period, and provided such extension not exceed one (1) additional year. No further extensions may be authorized without resubmittal of a preliminary map or plat application to the Planning Commission.

176.070 Major partitions and subdivisions - final map or plat approval. The form and content of a final map or plat shall be in accordance with the provisions of ORS 92.050 through 92.080, and in addition shall comply with all the provisions of this code. A complete application together with all required materials shall be submitted to the City Manager or his designee prior to review of the request for final map or plat approval. Within 15 days of submission, the City Manager or his designee shall determine whether the final map or plat conforms with the approved preliminary map or plat, and conforms with the applicable requirements of this code. If it is found that the map or plat fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections. When it is found to conform, the map or plat will then be prepared for presentation before the Planning Commission.

- A. Planning Commission authority. The Planning Commission shall approve or deny the request for final map or plat approval based upon the following criteria:
  - 1. Conformance with the approved preliminary map or plat.
  - 2. Compliance with conditions of approval.
- B. Final action. The Planning Commission shall review the final map or plat and shall state findings to approve or deny the request. A negative decision shall nullify preliminary map or plat approval.

- C. Agreement to meet conditions. As part of the approving action, the developer must demonstrate to the satisfaction of the review body that all required off-site and on-site improvements and conditions of approval have been satisfied or guaranteed in accordance with the provisions of Section 172, Public Facilities Improvement Standards and Criteria.
- D. Submittal requirements - final map or plat. The applicant shall submit the final map or plat to the City Manager or his designee for final processing in accordance with the provisions of this code. The map or plat shall be prepared by a licensed land surveyor. The map or plat shall be on good quality material as specified by the surveyor serving the city in India Ink, suitable for binding and copying, and shall be 18" x 24" in size. No part of the drawing shall be nearer to the edge of the sheet than one (1) inch, and the drawing shall be made in conformity with ORS 92.080. The final map or plat shall also be accompanied by an exact duplicate thereof suitable for making prints together with 14 copies. The final map or plat shall contain the following:
1. The date, north arrow, and scale.
  2. Legal description of the tract boundaries.
  3. Name of the owner or owners, subdivider, and engineer or surveyor.
  4. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
    - a. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision.
    - b. Adjoining corners of adjoining subdivisions.
    - c. City boundary lines when crossing or adjacent to the subdivision.
    - d. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this code.
  5. The exact location and width of streets and easements intercepting the boundary of the tract.
  6. Tract, block and lot or parcel boundary lines and street right-of-way and centerlines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings. Approximate high water lines for any creek, lake, ocean or other body of water. Tract boundaries and street bearings shall be shown to the nearest 10 seconds with bases of bearings. Distances shall be shown to the nearest 0.01 feet. Error of closure shall be within the limit of one (1) foot in 10,000 feet.

7. The width of the portion of streets being dedicated and the width of existing right-of-ways. For streets on a curvature which are being dedicated, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.
8. All easements shall be clearly labeled and identified, and, if already of record, a statement of the easement. Easements, except for right-of-way, shall be denoted by fine dotted lines. The widths of the easements and the lengths, bearings of the lines, and sufficient titles thereto to definitely locate the easement with respect to the subdivision must be shown. If an easement, other than a right-of-way, is being dedicated by the map, it shall be referred to in the certificate of dedication and its purpose and scope shall be adequately stated in the said certificate.
9. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid and of sufficient size and thickness to stand out and shall be so placed as not to obliterate any figure.
10. The area of each lot or parcel which is one (1) acre or larger to the nearest hundredth of an acre. If less than one (1) acre, the area to the nearest square foot.
11. Block numbers beginning with the number "1" or the letter "A" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate the figure. Block numbers in any addition in the subdivision of the same name shall be a continuation of the numbering in the original subdivision.
12. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale. The following phrasing shall be used when identifying open space dedications.
  - a. Common open space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowners association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
  - b. Public open space - shall be used when identifying those parcels of land dedicated in fee simple to the city of Brookings for open space purposes.

13. The following certificates which may be combined where appropriate:
    - a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final map or plat.
    - b. A certificate signed and acknowledged as above, dedicating all lots for land shown on the final map or final plat intended for the exclusive use of the owners in the subdivision or partition, their licenses, visitors, tenants, and servants.
    - c. A certificate conforming to ORS 92.060 and 92.070 with the seal and signature of the engineer or surveyor responsible for the survey and final plat or map.
    - d. A certificate or transfer deed signed by all parties having any proprietary interest in the land, dedicating to the public all streets and roads, without any reservation or restriction other than reversionary rights upon vacation of any such street or road, and easement for public utilities.
    - e. Other certifications now or hereafter required by law.
  14. 100 year floodway, as applicable.
  15. Building setback lines, if any are to be made a part of the subdivision's deed restrictions.
- E. Supplementary information. At the time of filing for final map or plat approval, the applicant shall also file concurrent therewith the following:
1. A traverse sheet, giving the latitude and departures, or computer print-out showing the mathematical closure, within allowable limits of error, of the exterior boundaries of the tract in all cases in which said boundaries are irregular or in which the tract is laid out in irregular blocks, and of the exterior boundaries of all irregular lots and blocks.
  2. Plans, profiles, details, and specifications for improvements conforming to all ordinances of the city and to the standards of this code and pursuant to Section 172.190, Public Facilities Construction Standards, must show full details of all improvements and shall be to a scale of 40 or 50 feet to the inch horizontal and four (4) or five (5) feet to the inch vertical.
  3. A detailed estimate of quantities and costs of the proposed improvements for approval by the city engineer.

4. A title report or subdivision guarantee by a title company doing business in Curry County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to the public use, and their interest therein, certified for the benefit and protection of the city that the persons therein named are all of the persons necessary to give clear title to the streets and other easements therein to be offered for dedication. Said title report shall be dated no later than 15 days from the date of submittal.
  5. Copies of all proposed covenants, conditions, and restrictions or a statement in writing signed by the developer/owner that no such restrictions will be established.
  6. Such streets, offers of dedication or other instruments affecting or conveying title or any interest in land as are required under the conditions of approval of the preliminary map or plat.
  7. A statement that all applicable fees required by the city code have been paid.
  8. Copies of the city's standard (or deferred) form of improvement agreement executed by the developer/owner, together with an executed copy of each labor and material and improvement bond guaranteeing payment of the cost of setting monuments (ORS 92.065) and county certification that the requisite tax bond has been posted (ORS 92.095) and such other agreements and bonds as may from time to time be required by law.
- F. Appeals. The final action of the Planning Commission may be appealed as provided in Section 156 of this code.
- G. Approval signatures on final map or plat. Following review and approval of the final map or plat, the developer/owner shall take the following actions:
1. Obtain the approval signature thereon by the surveyor serving the city certifying that the final map or plat complies with applicable survey laws. Before so certifying, the surveyor may cause field investigations to be made to verify that the plat survey is sufficiently accurate. If it is determined that there has been a failure to comply, the applicant shall be notified and afforded an opportunity to make corrections. When the plat is found to conform, it shall be signed and dated by the surveyor.
  2. As required by ORS 92.110, obtain the approval signatures thereon of the board of directors, or board's delegate, of any irrigation district, drainage district, water control district or district improvement company if the subdivision or minor partition is within such district.

3. Obtain the approval signatures thereon of the chairman of the Planning Commission and City Manager or his designee certifying that the final map or plat is approved.
4. Obtain the approval signatures thereon of the county assessor certifying that all taxes on the property have been paid or bonded for in accordance with state law.
5. After all the necessary approvals and signatures have been obtained, and the final map or plat has been delivered to the City Manager or his designee, along with the requisite recording fees, the city shall forthwith file for record the approved final map or plat within 30 days.
6. Within 10 days after recordation of the final map or plat, the developer/owner shall provide the city one (1) mylar transparency and two (2) blue-line prints of the map or plat, and shall furnish the city two (2) blue-line prints of the approved improvement drawings.

176.080 Lot design standards. In any residential land division, lots and blocks shall conform to the following standards, in addition to the provisions of Sections 16 thru 32.

- A. Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this code.
- B. Lot dimensions. The lot dimensions shall comply with the minimum standards of this code. When lots are greater than minimum standards, the review authority shall require that such lots be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve such potential lots.
- C. Through lots. Through (double frontage) lots shall be avoided except where necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation.
- D. Arterial access. When driveway access from arterial or major collector streets is necessary for several adjoining lots, the review authority shall require that such lots be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway should be designed and arranged so as to avoid requiring vehicles to back into traffic onto arterials. An access control strip may be required to be placed along all lots abutting arterial streets requiring access onto the lesser class street where possible.

- E. Side yards. As far as practical the side property lines of a lot shall run at right angles to the street upon which it faces, except that on a curved street the side property line shall be radial to the curve.
- F. Setbacks. Setbacks shall be as required by the applicable zoning district and special development standards.
- G. Fire protection. The fire marshal may require the installation of a fire hydrant where the length of an accessway would have a detrimental effect on fire fighting capabilities.
- H. Reciprocal easements. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will insure access rights shall be recorded with the approved final map or plat.
- I. Blocks. Blocks shall not exceed 1200 feet in length without street separation and shall not exceed 800 feet without improved pedestrian way separation, except blocks adjacent to arterial streets or unless previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between arterial street intersections is 1800 feet.