

Myrtle Creek Zoning Ordinance

Administration & Enforcement (Adobe Acrobat File)
Amendments & Zone Changes (Adobe Acrobat File)
Comprehensive Plan
Conditional Use & Temporary Use (Adobe Acrobat File)

Draft Ordinances

Residential Hillside (R-H) (Adobe Acrobat File)
Low Density Residential (R-1) (Adobe Acrobat File)
Medium Density Residential (R-2) (Adobe Acrobat File)
High Density Residential (R-3) (Adobe Acrobat File)

Central Business District (C-1) (Adobe Acrobat File)
Neighborhood Business District (C-2) (Adobe Acrobat File)
General Business District (C-3) (Adobe Acrobat File)

General Manufacturing (G-M) (Adobe Acrobat File)

Community Services (SD/CS) (Adobe Acrobat File)
Flood Hazard Area (SD-FHA) (Adobe Acrobat File)

Nonconformities Exceptions & Variances

Site Review Procedures & Standards (Adobe Acrobat File)
Subdivision Ordinance
Supplemental District Regulations (Adobe Acrobat File)
NEW VARIANCE (City Ord. 731)

Zone Map

City of Myrtle Creek
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ARTICLE IX
ADMINISTRATION AND ENFORCEMENT

SECTION 9.01.0 SCOPE AND COMPLIANCE.

This article sets forth the procedures required for obtaining development approvals and Certificates of Occupancy. The powers and duties of City officials and boards are specified herein insofar as administration of this Ordinance is concerned. Actions initiated under this Ordinance shall be consistent with the adopted Comprehensive Plan of the City of Myrtle Creek and with applicable State and Federal laws and regulations as these plans, laws and regulations may now or hereafter provide.

- (1) No development, including accessory and temporary uses, may be established or changed; no structure shall be erected, constructed, reconstructed, or altered; and no building used, occupied, or altered with respect to its use after the effective date of this Ordinance except as this Ordinance permits.
- (2) Site alterations, regrading, filling, or clearing of land prior to submission of the plans for development shall be a violation of this Ordinance.
- (3) No lot area, yard, or other open space or off-street parking or loading area which is required by this Ordinance for one use shall be used as a required lot area, yard or other open space or off-street parking or loading area for another use, except as allowed by Section 4.08.2, Paragraph (1).
- (4) The requirements of this Ordinance apply to the person undertaking a development or the user of a development and to the person's successors in interest. Nothing herein shall relieve any applicant of the additional responsibility of seeking any permit required by any applicable statute, ordinance or regulation in compliance with all of the terms of this Ordinance.

SECTION 9.02.0 FORMS OF PETITIONS, APPLICATIONS AND APPEALS.

Petitions, applications and appeals provided for in this Ordinance shall be made on forms prescribed by the City. Applications shall contain the information described in Section 9.02.1 below and shall be accompanied by plans and specifications, drawn to scale, showing the actual dimensions of the lot to be built upon, the size and locations on the lot of existing and proposed structures, the intended use of each structure, the number of families, if any, to be accommodated thereon, the relationship of the property to the existing area and such other information as is needed to determine conformance with this Ordinance.

Any land use applications, plan reviews, development permits, public hearings or other proceedings required by this Ordinance may be consolidated to allow at one time for all such required development permits.

SECTION 9.02.1 INFORMATION TO BE SUBMITTED WITH APPLICATION

An application for development shall consist of the following information, as applicable, plus any other materials that may be required by additional provisions of this Ordinance because of the unique type of development proposed or the area involved.

- (1) A completed application form and the appropriate filing fee.
- (2) Proof that the affected by the application is in the exclusive ownership of the applicant(s) or that the applicant has the consent of all parties in ownership of the affected property.
- (3) Legal description and street address of the property affected by the application.
- (4) A site plan, sketches and any other explanatory information that may have a bearing on determining the action to be taken or that may be necessary to establish compliance to ordinance requirements and all relevant laws. Plans shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the nature and extent of the work proposed. The following information shall be shown on, or attached to, a site plan:
 - (a) The first sheet of each set of plans shall give the name and address of the property owner, the name and address of the person, engineer or surveyor who prepared the plans, the scale to which the plan is drawn, the northpoint and the date prepared;
 - (b) The property boundary lines and individual lot lines indicating total acreage and square footage of individual lots;
 - (c) A vicinity map, where appropriate, showing adjacent land and how proposed streets and utilities may be extended to connect to existing streets and utilities;
 - (d) The location width and name of all existing streets, railroads and utility rights-of way or easements;
 - (e) The location of existing sewers, water mains, fire hydrants, culverts and other underground facilities within the tract, indicating pipe sizes, grades, manholes and location;
 - (f) The location and use of existing and proposed buildings or structures and exterior dimensions where appropriate;
 - (g) The location of landscaping, fences (indicating height and material), buffer areas, common property or required open spaces;
 - (h) The location, size, type and illumination of existing and proposed signs;
 - (i) The location, size and surface treatment of all existing and proposed driveways and pedestrian entrances and exists; the location, total number and dimensions of off-street parking spaces and loading areas; and the drainage plan for all paved surfaces;
 - (j) The location of areas subject to flooding as defined in Article III, "Special Flood Hazard Area"; the location of any outstanding natural features; and the topography of the property, existing and proposed, showing the grades, elevations and character of the site as they relate to the improvements and to the adjacent area. Where site topographic surveys are required, they shall be prepared with 2

foot contour intervals for slopes of less than 5%, with 5 foot contour intervals for slopes of 5% to 15%, and with 10 foot contour intervals for slopes of 15% and above, or as is otherwise approved by the City Engineer;

- (k) Where appropriate, architectural perspectives, layout and elevation drawings of proposed structures shall be drawn without exaggeration, except where noted, including locations, area and design of signs and landscaping. The location and description of mechanical roof facilities shall also be shown if subject property is so oriented as to become part of the view from adjacent properties; and
- (l) If the application relates to property scheduled for phased development, the proposed layout of the total projected development shall be indicated and each phase's projected scope and time period indicated to the extent possible.

SECTION 9.03.0 PROCESSING PROCEDURES.

All projects involving the erection of a new building or structure or the enlargement or intensification of use of any existing building or structure shall be reviewed for compliance with this Ordinance and the Comprehensive Plan prior to issuance of a Building Permit, Placement Permit, or Certificate of Plan Check. Except where Planning Commission or City Council approval is required for applications involving a public hearing or where it is necessary for an application to be considered by a body having the power to impose additional conditions or restrictions, the City Administrator may approve an application for development. Decisions of the City Administrator may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the City Council in accordance with the procedures set forth in Section 9.05.0. Applications shall be processed as follows:

- (1) Certificate of Occupancy.
No building or structure shall be used or occupied and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a Certificate of Occupancy as required by the Building Code.
 - (a) No Certificate of Occupancy shall be issued until the premises in question have been inspected, subsequent to issuance of a Building Permit, to verify compliance with the requirements of the Building Code and this Ordinance.
- (2) Site Review.
No structure shall be erected, constructed, reconstructed, extended or moved and no land or building shall be occupied or used in whole or in part for any use whatsoever until the owner, tenants, contract purchaser, or authorized agent thereof, has received verification that the building or use complies with all zoning requirements. All site plans shall be evaluated subject to the procedures, standards and limitations set forth in Article V. A Certificate of Plan Check shall be issued by the Planning/Engineering Department upon order of the City Administrator, Planning Commission or City Council as authorized by the various provisions of this Ordinance.
- (3) Variance.
An application for a variance to the specified provisions of this Ordinance shall be made following the procedure detailed in Article VII.
- (4) Conditional Use or Temporary Use Permit.

An application for any or Temporary Use Permit required by this Ordinance shall be made following the procedures detailed in Article VII.

(5) Amendments.

Amendments to either the text or maps of this Ordinance shall be made following the procedures detailed in Article VIII.

- (a) All map amendments shall be consistent with the goals and policies of the City of Myrtle Creek Comprehensive Plan; and
- (b) A petition for an amendment to the text of this Ordinance may be submitted to the Planning Commission by any interested party. The petition shall state in particular the Article, Section, Subsection and Paragraph sought to be amended. The petition shall contain the language of the proposed amendment and shall recite the reasons for such proposed change in the text. If, upon consideration of the petition, the Planning Commission determines that the public health, safety and welfare may best be served by the requested change in the text, the Commission shall recommend the amendment to the City Council.

(6) Final Action on Application.

Except as provided for in subsections (a) and (b) below, final action on administrative and quasi-judicial applications processed pursuant to this Section shall occur not later than 120 days following receipt of a complete application.

- (a) The 120 day period set forth in Section (6), above, may be extended for a reasonable period of time at the request of the applicant.
- (b) The 120 day period set forth in Section (6), above, does not apply to amendments of the Comprehensive Plan or Zoning Ordinance which have been forwarded to the Department of Land Conservation and Development pursuant to ORS 197.610.

- (7) If the City does not take final action on an application which is subject to the requirements of this Section within 120 days after the application was deemed complete, the applicant may apply in the Douglas County circuit court for a writ of mandamus to compel the City to either approve the application or show that the approval would violate the Comprehensive Plan or local land use regulations.

SECTION 9.04.0 PUBLIC HEARING PROCEDURES.

Before making a decision on an application requiring a public hearing or an appeal or permit revocation, the Planning Commission or City Council, as the case may be, shall hold a public hearing on the appeal or application in accordance with the laws of the State of Oregon and the following paragraphs.

SECTION 9.04.1 OPEN HEARING REQUIRED.

- (1) All hearings shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- (2) All of the documents or evidence relied upon by an applicant must be submitted to the City and made available to the public for review at least 20 days in advance of the

hearing date. The staff report to be used at the hearing must be available to the public at least 7 days in advance of the hearing. The City may charge a reasonable fee for photocopies of the staff report, documents and other evidence.

SECTION 9.04.2 NOTICE OF HEARING.

- (1) Notice shall be published in a newspaper of general circulation in the City at least 10 days prior to the date of the hearing.
- (2) Notice shall be given to neighboring property owners by mailing of written notice not less than 20 days prior to the date of hearing to all owners of record of real property, any portion of which is located within 150 feet of the boundaries of the property that is the subject of the application or appeal. For this purpose, the names and addresses of the owners as they are shown in the records of the Douglas County Assessor shall be used.
- (3) Notice shall be given to the applicant or appellant and any other person who makes a written request for notice by mailing to such persons written notice not later than 20 days in advance of the hearing.
- (4) If the proposed Zoning Map Amendment (Zone Change) (a) has been initiated by the Planning Commission or City Council, (b) is declared by the City Council to be a major re-classification, and (c) consists of a minimum of 10 acres, the mailing of individual notice required by paragraph (2) is not required, however, notice of hearing shall be published as set forth in paragraph (1). Additional means of informing the public, as may be specified by the Council, shall be observed.
- (5) The notice of hearing shall contain the following information:
 - (a) The name and mailing address of the applicant.
 - (b) The nature of the application and the proposed use or uses which could be authorized.
 - (c) The applicable criteria from the Comprehensive Plan and Zoning Ordinance which will be applied to the decision.
 - (d) The address and geographic location of the subject property.
 - (e) The time, date and location of the hearing.
 - (f) A statement that failure of an issue to be raised in the hearing, either in person or by letter, or failure to provide sufficient specificity to an issue, may preclude the filing of an appeal to the Land Use Board of Appeals on that issue.
 - (g) A statement that a copy of the application, together with all documents and evidence submitted by the applicant, are available for inspection in the Myrtle Creek Planning Department.
 - (h) A statement that a copy of the official staff report will be available for inspection in the Planning Department not less than seven days prior to the hearing.
 - (i) A general explanation of the requirements for submission of testimony and the procedure for conducting the hearing.

- (j) The name and telephone number of the City representative to contact for further information.
- (k) The requirements and limitations for appeal, including appeal to the Land Use Board of Appeals (LUBA).

SECTION 9.04.3 CONDUCT OF HEARING.

- (1) Prior to opening of the hearing, the chairman shall determine that the requirements for open meetings are met and that no conflicts of interest exist among the decision-making body. The Chairman shall also explain hearing procedures to the audience, including the order that testimony will be taken.
- (2) At the beginning of a hearing, statements shall be made to identify the applicable criteria that will be used in the decision making process and explain that the testimony and evidence presented in the hearing must be directed to the applicable criteria. It shall also be explained that failure to raise an issue with sufficient specificity to afford the decision-making body and the parties an opportunity to respond to the issue will preclude raising the issue on appeal to the Land Use Board of Appeals (LUBA).
- (3) During the hearing, the decision-making body may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay. Testimony on appeals may be limited to those persons having "standing" or otherwise have participated in the hearing or hearings held prior to the initial decision.
- (4) The hearing may be continued until a subsequent meeting and the decision-making body may keep the hearing open to take additional information up to the point a final decision is made. Upon recessing, the time and date the hearing is to be resumed shall be announced. No further notice of a recessed or continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

SECTION 9.04.4 MODIFICATION OF APPLICATION AT HEARING.

- (1) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Planning Commission or City Council, the applicant may agree to modify his application, including the plans and specifications submitted.
- (2) Unless such modifications are so substantial or extensive that the decision-making body cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Commission/Council may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

SECTION 9.04.5 RECORD OF HEARING AND DECISION.

- (1) A tape recording shall be made of all hearing proceedings and, in accordance with State regulations for records retention, such recordings shall be kept for a minimum of one year. Accurate minutes shall also be kept of all such proceedings, however, the record

need not set forth the evidence verbatim. A permanent record of each set of minutes shall be maintained in a safe place by the City Recorder.

- (2) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a permanent part of the record of the proceedings.
- (3) Any participant in a hearing may request and receive approval for the record to remain open 7 days after the hearing. When a request is received to reopen the record to admit new evidence, it shall be treated in accordance with procedures for an appeal and a new hearing shall be held to provide an opportunity for any person to raise new issues relating to the new evidence.
- (4) A decision made by the Planning Commission or City Council regarding an application or appeal or revocation of a permit shall not be official until reduced to writing and mailed to the applicant and any other qualified parties. A registry of all land use decisions shall be kept on file, regardless of whether or not the holding of a public hearing is required.
- (5) The written decision described in paragraph (4) above shall include a statement of the principal findings and conclusions utilized in the decision making process whenever a land use decision involves discretionary action by the Planning Commission or City Council. These "Findings of Fact" shall be made available to the public, however, a fee may be charged for photocopies in accordance with the Myrtle Creek *Handbook of Fees and Charges*.
- (6) Prior to the expiration of the appeal period prescribed in Section 9.05.0, no building or development permit shall be issued, nor shall any development activity commence, including the erection, construction, reconstruction, alteration, use or occupancy of the land or a structure, when such development, use or occupancy is the subject of a Planning Commission or City Council decision.

SECTION 9.05.0 APPEALS.

- (1) An interpretation, action, or ruling by the City Administrator pursuant to this Ordinance may be appealed by an affected or aggrieved party to the Planning Commission as follows:
 - (a) A person intending to file an appeal on an administrative decision shall promptly request written notice of said decision from the City Administrator;
 - (b) The appellant shall, within 10 days from the date the decision was mailed, file written notice of the appeal with the City Administrator. The appeal shall be accompanied by the service charge, if any, established for appeals in the Myrtle Creek *Handbook of Fees and Charges*; and
 - (c) The Administrator shall forward the appeal to the Planning Commission at the next regular meeting. The Commission shall receive a report and recommendation thereon from the City Administrator and shall hold a public hearing on the appeal. Notice and conduct of hearing shall be in accordance with Section 9.04.0.

- (2) An action or ruling of the Planning Commission pursuant to this Ordinance may be appealed by an affected or aggrieved party to the City Council within 10 days from the date the written notice of the Commission's decision has been mailed.
 - (a) Written notice of the appeal shall be filed with the City Administrator accompanied by the service charge, if any, established for appeals in the *Myrtle Creek Handbook of Fees and Charges*; and
 - (b) If the appeal is not filed within the 10 day period, the decision of the Planning Commission shall be final and binding on all parties concerned. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. Notice and conduct of hearing shall be in accordance with Section 9.04.0.
- (3) An action or ruling by the City Council pursuant to this Ordinance may be appealed to the Land Conservation and Development Commission, the Land Use Board of Appeals or Circuit Court, as appropriate, in accordance with State regulations regarding land use decisions. It shall be the responsibility of the appellant to contact the appropriate State agency regarding proper appeal procedure.

SECTION 9.06.0 DUTIES OF THE PLANNING DEPARTMENT.

The Planning Department shall receive, examine and process all applications for development as required by this Ordinance and shall:

- (1) Review and evaluate all site plans to establish compliance with the provisions of this Ordinance; prepare staff reports for development applications requiring submission to the Planning Commission or City Council; and issue Certificates of Plan Check as directed by the authorizing body.
- (2) Receive and process all applications for variances, conditional use permits, temporary permits and zone changes in accordance with the processing procedures of Section 9.03.0.
- (3) Record and file all applications with accompanying plans and documents and to otherwise act as secretary to the Planning Commission. All applications and documents shall be a public record.

SECTION 9.07.0 BUILDING OFFICIAL; DUTIES AND POWERS.

- (1) Receive, examine and process all applications for Building Permits.
- (2) Issue Building Permits only where there is compliance with the provisions of this Ordinance. Permits for construction of uses requiring a Variance, Conditional Use Permit, Temporary Permit or Certificate of Plan Check shall be issued only upon order of the City Administrator, Planning Commission or City Council, as applicable.
- (3) Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- (4) Revoke, by writing, a permit or approval issued contrary to this Ordinance or based on a false statement or misrepresentation in the Application.

- (5) Stop, by written order, work being done contrary to the Building Code or to this Ordinance. Such written order, posted on the premises involved, shall not be removed except by order of the Building Official. Removal without such order shall constitute a violation of this ordinance.
- (6) Institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct or abate such violation, so as to prevent the occupancy or use of any building, structure or land; or prevent any illegal act, conduct, business or use in or about such premises.
- (7) Record and file all applications for permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.

SECTION 9.08.0 CITY ENGINEER; DUTIES AND POWERS.

The City Engineer is charged with the administration and enforcement of public facility construction standards and flood hazard and slope hazard area protection requirements as specified herein. The City Engineer shall coordinate all plans for construction to ensure application of engineering principles.

SECTION 9.09.0 CITY ADMINISTRATOR; DUTIES AND POWERS.

The City Administrator shall coordinate the administration of this Ordinance with other City, State or Federal laws and regulations as these plans, laws and regulations may now or hereafter provide. Additional duties of the City Administrator shall be specified in other parts of this Ordinance. In addition, the Administrator shall be expected to seek the fulfillment of the provisions of this Ordinance, both general and specific, and shall be called upon to interpret the provisions of this Ordinance including interpretations of the various uses in any district not expressly mentioned in this Ordinance. However, an interpretation which would result in any identifiable loss of protection or which would increase the nuisance potential of any use should not be made by an Administrator but should only be made when the party interpreting this Ordinance has the power to impose additional restrictions or conditions.

SECTION 9.10.0 DUTIES OF THE PLANNING COMMISSION.

- (1) The Planning Commission shall conduct public hearings and review and decide on all applications for Variance, Conditional Use Permit, Temporary Permit and Site Review as required by this Ordinance; hear all petitions and make a recommendation to the City Council as provided by this Ordinance.
- (2) The Planning Commission shall study and report on all proposed amendments to the text or map of this Ordinance referred to it by the City Council or upon receipt of a petition.
- (3) The Planning Commission shall review this Ordinance and report on the same to the City Council at least once every 5 years, commencing on the date of enactment of this Ordinance. Specifically, the Planning Commission shall:

- (a) Analyze the extent to which development has occurred in the City as compared to the projected growth at the time of the last previous mapping of the districts created by this Ordinance;
- (b) Recommend any changes in the Zoning Map or Comprehensive Plan which would be required in order to accommodate the expected 20 year growth of Myrtle Creek for residential, industrial, commercial and other land uses; and,
- (c) Analyze the continued validity of any other regulations imposed by this Ordinance in terms of changed conditions since the last review of the same.

SECTION 9.11.0 CITY COUNCIL.

This is the legal ruling body of the City of Myrtle Creek and, as such, the only one which can adopt or amend ordinances, including this one. Therefore, it shall be the City Council which hears and passes on initiations for amendments and zone changes. This body shall also appoint the Planning Commission members and the City Administrator, if any, and shall hear and decide on appeals.

SECTION 9.12.0 CITY ATTORNEY.

The City Attorney shall be the official to seek redress for the City for any violations of this Ordinance.

SECTION 9.13.0 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM.

In their interpretation, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of any lawfully adopted rules, regulations and ordinances conflict, the most restrictive or that imposing the higher standards shall govern.

SECTION 9.14.0 SEVERANCE AND LIABILITY.

- (1) Should any section, provision, clause or portion of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.
- (2) The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind or nature by the City of Myrtle Creek or any official or employee thereof or the practicality or safety of any structure or use proposed, and shall create no liability upon or cause of action against such public body, official or employee for any damage that may result thereto.

SECTION 9.15.0 ENFORCEMENT AND REVIEW.

Whenever the Administrator receives a written and signed complaint alleging a violation of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

SECTION 9.15.1 PERSONS LIABLE.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

SECTION 9.15.2 ENFORCEMENT PROCEDURES.

- (1) If the Administrator finds that any provision of this Ordinance is being violated, he shall mail written notice to the person responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it and the time limit in which action must be taken. Additional written notices may be sent at the administrator's discretion.
- (2) The final written notice (the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the Administrator's decision or order may be appealed in accordance with Section 9.05.0.
- (3) Notwithstanding the foregoing, in cases where delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 9.15.3.

SECTION 9.15.3 PENALTIES AND REMEDIES.

- (1) A violation of this Ordinance or failure to comply with any of its requirements, including conditions established in connection with grants of variances, conditional use permits and other permits regulated herein, shall constitute a misdemeanor, punishable by a fine of up to \$50, or a maximum 30 days imprisonment, or both.
- (2) Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including conditions established in connection with the granting of a permit or variance, shall also subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 10 days after being cited for a violation, the penalty may be recovered by the City in a civil action in the nature of debt. A civil penalty may not be appealed if the offender was sent a final notice of violation in accordance with Section 9.15.2 and did not take an appeal (as provided by Section 9.05.0) within the prescribed time.
- (3) This chapter may also be enforced by any appropriate equitable action, including declaring the building or land thus in violation a nuisance or instituting injunction, mandamus, abatement or other appropriate proceedings to prevent or remove the unlawful use.
- (4) Each day that any violation continues after notification by the Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- (5) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

SECTION 9.15.4 PERMIT REVOCATION.

- (1) Planning Clearance for variances, conditional use permits, sign permits, fence permits and all other permits regulated by this Ordinance (hereinafter called "permits") may be revoked by the permit-issuing authority if the permit recipient fails to develop or maintain the property in accordance with the plans submitted or in accordance with the requirements of this Ordinance or any additional requirements or conditions lawfully imposed by the Planning Commission or City Council.
- (2) Before a permit may be revoked, the administrator shall give the permit recipient 10 days of notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If a hearing is requested, notice shall be given in accordance with Section 9.04.0.
 - (a) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in Subsection (1) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party; and,
 - (b) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion

and the administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

- (3) No person may continue to make use of land or buildings in the manner authorized by permit after such permit has been revoked in accordance with this Section.

SECTION 9.16.0 REPEAL.

Upon the effective date thereof, but not otherwise, Ordinance No. 468, "Zoning Ordinance of the City of Myrtle Creek" enacted September 25, 1978, as amended by: Ordinance 473, adopted June 17, 1980; Ordinance 478 adopted July 15, 1980; Ordinance 493, adopted June 16, 1981; Ordinance 494, adopted July 21, 1981; Ordinance 499, adopted August 18, 1981; Ordinance 500, adopted September 15, 1981; and Ordinance 505, adopted February 16, 1982, are hereby repealed and all other ordinances in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 9.17.0 EFFECTIVE DATE

This Ordinance shall take effect on the 30th day after enactment.

*PASSED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS
28TH DAY OF JUNE, 1982.*

ARTICLE VIII

AMENDMENTS AND ZONE CHANGES

SECTION 8.01.0 AUTHORIZATION TO INITIATE AMENDMENTS.

Whenever public necessity, convenience or general welfare requires amendments to the provisions of this Ordinance, they may be initiated by the City Council, by the Planning Commission or by application of a property owner or his authorized agent.

SECTION 8.02.0 APPLICATION PROCEDURE AND SERVICE CHARGE.

An application for amendment by a property owner or his authorized agent shall contain the information described in Section 9.02.0 and shall be filed with the Planning Department at least 20 days prior to the date of hearing upon forms prescribed for the purpose. The application shall be accompanied by a service charge established by the City of Myrtle Creek *Handbook of Fees and Charges*.

SECTION 8.03.0 PUBLIC HEARING ON AMENDMENTS.

- (1) In judging whether or not a zone change or amendment shall be initiated, approved, modified or denied, the Planning Commission shall establish the proposal's appropriateness and desirability or the public convenience or necessity to be served and shall establish compliance with the Comprehensive Plan and other applicable policies of the City by adoption of Findings of Fact. Prior to making a recommendation for approval or denial, the Planning Commission shall conduct a public hearing on the proposed or zone change. In making their recommendation, the Planning Commission may impose any of those conditions set forth in Section 5.01.2 which it finds necessary to carry out the purpose of this Ordinance and to otherwise achieve the objectives of the Comprehensive Plan.
- (2) The Planning Commission findings and recommendation shall be forwarded to the City Council, whereupon the Council shall either grant the amendment or zone change in whole or in part by adoption of findings of fact and by the adoption of an ordinance, or deny the same by appropriate motion and findings of fact. The decision of the Council shall be based on the record of hearing except that the Planning Commission, in the case of a major reclassification or an amendment or zone change initiated by the Planning Commission, may recommend that the City Council conduct a *de novo* hearing prior to final action.
- (3) Notice and conduct of each hearing shall be in accordance with Section 9.04.0.
- (4) The findings of fact explain the criteria and standards considered relevant to the decision, state the facts relied upon in rendering the decision and explain the justification for the decision based on the Comprehensive Plan and other applicable criteria, standards and facts.
- (5) Records of amendments to the text and map of this Ordinance shall be maintained in a form convenient for use by the public.

SECTION 8.04.0 ADDITIONAL PROCEDURES EFFECTING A ZONE CHANGE.

It is the purpose and intent of Section 8.04.1 through 8.04.3 to provide additional procedures in the matter of effecting a change of zone so that the health, safety and general welfare and environmental amenities of the citizens of the City are ensured as certain development occurs.

SECTION 8.04.1 RESOLUTION OF INTENT TO CHANGE ZONE.

If, from the report and recommendation of the Planning Commission as required by this Ordinance, the City Council determines that the public health, safety, welfare and convenience will be best served by the requested zone change or any portion thereof, the Council may indicate its general approval in principle of the change of zone by the adoption of a "Resolution of Intent to Change the Zone" of said property. This resolution shall include any conditions, stipulations or limitations which the Council may feel necessary to impose in the public interest as a prerequisite to final action.

SECTION 8.04.2 RESOLUTION OF INTENT BINDING.

The fulfillment of all conditions, stipulations and limitations contained in the "Resolution of Intent" to effect a change of zone on the part of the applicant, shall make such resolution a binding commitment on the Council.

SECTION 8.04.3 RESOLUTION OF INTENT VOID UPON FAILURE TO COMPLY.

Upon fulfillment of all conditions by the applicant, the Council shall, by ordinance, effect such change of zone. The failure of the applicant to substantially meet any or all conditions, stipulations or limitations contained in a "Resolution of Intent" to effect a change of zone, including the time limit placed on the resolution, shall render said resolution null and void, unless an extension is granted by the Council upon recommendation of the Planning Commission. In the event of a change of zone approve by the Council, but not on the basis of a "Resolution of Intent" to effect a change of zone, the Council shall by ordinance effect such change of zone.

ARTICLE VII
CONDITIONAL USE PERMITS
&
TEMPORARY USE PERMITS

SECTION 7.01.0 CONDITIONAL USE.

Uses designated as conditional are (a) those classified as a conditional use within the District Regulations, and (b) signs not otherwise permitted by the Supplemental Regulations. A conditional use shall be permitted, altered, enlarged or denied in accordance with the standards and procedures of this Article.

- (1) Existing Structures.
In the case of an existing development where an alteration of use is classified as a conditional use: The change in use shall conform to the requirements for a conditional use although it is not an actual structural change or new construction.
- (2) Existing Uses.
In the case of a use existing prior to the effective date of this Ordinance which is designated as a conditional use: An expansion of use or an alteration that affects significant elements of the site plan shall conform with the requirements for a conditional use.

SECTION 7.01.1 AUTHORIZATION TO GRANT A CONDITIONAL USE PERMIT.

Before a conditional use or a modification of an existing conditional use is allowed, the Planning Commission shall conduct a public hearing on an application for a Conditional Use Permit. Notice and conduct of hearing shall be in accordance with Sections 9.04.0 through 9.04.3. The Planning Commission shall also conduct a site review when new construction is proposed or when significant elements of the site plan are affected.

- (1) Hearing & Findings Required.
In judging whether or not a conditional use proposal shall be approved, altered or denied, the Planning Commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and shall establish findings based on the criteria set forth in Section 7.01.2 or Section 7.01.3, as applicable.
- (2) Testimony & Supplemental Conditions.
To supplement the general requirements of this Ordinance, the Planning Commission, in reviewing an application for a Conditional Use Permit, will consider the testimony received at the public hearing which, in its judgment, is relevant to the request. As a condition of approval, the Planning Commission may impose any of the supplemental conditions set forth in Section 5.01.2 which it finds necessary to carry out the purpose of this Ordinance and to otherwise achieve the objectives of the Comprehensive Plan and other applicable policies of the City.

SECTION 7.01.2 CRITERIA FOR CONDITIONAL USE PERMIT APPROVAL.;

Except as provided for housing types specified in Section 7.01.3, a Conditional Use Permit may be granted only when the following criteria are met, can be met by observance of conditions or are not applicable. The approval or denial shall be accompanied by a statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the applicable criteria, standards and facts.

- (1) The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies of the City.
- (2) The location, size, design and operating characteristics under the proposal will have minimal adverse impact on the livability, value and appropriate development of abutting properties and the surrounding area when compared to the impact of development that is permitted outright.
- (3) The location and design of the site and structures for the use will be as attractive as the nature of the use and its setting warrants.
- (4) The proposal will preserve environmental assets of particular interest to the community.
- (5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes.
- (6) The property in question is reasonably suited for the use requested in regards to location, topography and other physical features, safe and efficient access, adequate area to provide for off-street parking and loading and available utilities and services.

SECTION 7.01.3 CRITERIA FOR CONDITIONAL USE PERMIT APPROVAL (SPECIFIED USES).

The following criteria shall be taken into consideration when evaluating a Conditional Use Permit for development of a Mobile Home Park or Planned Development. A Conditional Use Permit may be granted only when the criteria are met, can be met by observance of conditions, or are not applicable. The approval or denial shall be accompanied by a statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the applicable criteria, standards and facts.

- (1) Mobile Home Park.
The location, size, design and operating characteristics shall be suitable for the proper development of a Mobile Home Park shall have the endorsement of the City Engineer, Public Works Director, Police Chief, City Fire Marshal and/or other appropriate department or agency having an interest in the public welfare. The following criteria shall be considered in evaluating the suitability of the site:
 - (a) The relationship of the proposed Park to existing and proposed street networks so that traffic generated by the development can be accommodated safely and without congestion;
 - (b) The relationship of the proposed Park to public facilities such as, but not limited to, existing or proposed shopping centers and schools;

- (c) The general impact on the immediate vicinity (including the effect of the proposed Park on adjoining uses and the effect of the adjoining uses on the Park) and, in the case of a departure in character from surrounding uses, that the design of the Park will adequately reduce the impact of the development;
- (d) The conditions of soil, ground water level, drainage and topography are suitable. In order to prevent the adverse impacts of slope alteration (cut and fill), mobile homes shall be prohibited on slopes greater than 12% unless satisfactory evidence is submitted that the area protection provisions of the R-H District Regulations and the standards of Section 5.04.0 can be met;
- (e) A proposed site which is within the designated Flood Hazard Area shall comply with all area protection provisions ensuring that the site will provide a floor elevation that is not less than one foot above the 100-year flood elevation. Mobile homes shall be prohibited in the floodway;
- (f) The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and there is a demonstrated intent and capability to meet the General Conditions and Limitations and Park Design Standards contained in Article V; and,
- (g) In all cases, a condition shall be attached to approval of a Conditional Use Permit for Mobile Home Park purposes which stipulates that the approval of the Permit is contingent upon Planning Commission final acceptance of the site plan in accordance with the approval criteria for a Mobile Home Park set forth in Article V. The time limit on authorization of the Conditional Use Permit shall commence upon such final approval of the site plan.

(2) Planned Development.

The location, size, design and operating characteristics shall be suitable for the proper development of a Planned Development and shall have the endorsement of the City Engineer, Public Works Director, Police Chief, City Fire Marshal and/or other appropriate department or agency having an interest in the public welfare. The following criteria shall be considered in evaluating the suitability of the site:

- (a) The location, design, size and uses are consistent with the Comprehensive Plan and with any other applicable plan, development map, or ordinance adopted by the City Council;
- (b) That the location, design and size are such that the development can be well integrated with its surroundings and, in the case of a departure in character from surrounding uses, that the design of the Planned Development will adequately reduce the impact of the development;
- (c) That the location, design, size and uses are such that traffic generated by the development can be accommodated safely and without congestion on existing or planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets;
- (d) That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or planned facilities and services;

- (e) That the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for living, shopping or working;
- (f) That there is a demonstrated intent and capability to meet the objective of a Planned Development described in Section 5.11.1 consistent with the general requirements and design standards contained in Article V; and,
- (g) In all cases, a condition shall be attached to approval of a Conditional Use Permit for Planned Development purposes which stipulates that the approval of the Permit is contingent upon Planning Commission final acceptance of the site plan in accordance with the approval criteria for a Planned Development set forth in Article V. The time limit on authorization of the Conditional Use Permit shall commence upon such final approval of the site plan.

SECTION 7.01.4 APPLICATION PROCEDURE AND SERVICE CHARGE.

A request for a Conditional Use Permit or modification of an existing Conditional Use may be initiated by a property owner or his authorized agent by filing an application with the Planning Department at least 18 days prior to the date of hearing. The application shall include the information set forth in Section 9.02.0 and any drawings or materials essential to the understanding of the proposed use and its relationship to the surrounding properties. The application shall be accompanied by a service charge established by the adoption of the City of Myrtle Creek *Handbook of Fees and Charges*.

SECTION 7.01.5 TIME LIMIT ON PERMIT.

Authorization of a Conditional Use Permit shall be void after 6 months unless the use requested has commenced operation or unless substantial construction pursuant thereto has taken place. However, the Planning Commission may, at its discretion, extend authorization for an additional 6 months provided a written request from the applicant is submitted prior to the expiration date.

SECTION 7.02.0 TEMPORARY USE PERMITS.

It is recognized that there are special uses which, because of their unique characteristics or temporary or seasonal nature, cannot be properly classified in any particular Zoning District without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular location. A Temporary Use Permit may be approved to allow the limited use of structures or activities which do not conflict with the Zoning District in which they are located, however, no Temporary Use Permit shall be issued which would have the effect of providing a temporary means of establishing permanence. Temporary Use Permits are subject to approval under Sections 7.02.1 through 7.02.5.

SECTION 7.02.1 AUTHORIZATION TO GRANT A TEMPORARY USE PERMIT.

The City Administrator may issue Temporary Use Permits for interim uses which are incidental to construction, such as those listed in Section 7.02.2, Paragraph (1). All other requests for a Temporary Use Permit shall be heard by the Planning Commission, where the proposal shall be reviewed for impact on the surrounding area. In issuing a Temporary Use Permit, the approving authority may impose any of the conditions set forth in Section 7.02.3 which it finds necessary for the protection and preservation of property rights and values of adjacent properties. It shall be within the authority of the Planning Commission to, based on just cause, require that a public hearing be held on a specific application prior to making their decision or that the application shall be forwarded to the City Council for determination.

SECTION 7.02.2 PERMITTED TEMPORARY USES.

Temporary Use Permits shall be issued for structures or uses which are not specified in this Ordinance as a specific or general regulation and are of a temporary nature such as, but not limited to, the following:

- (1) The City Administrator, on his own authority, may issue permits for:
 - (a) Enclosures and buildings for the storage of equipment during the building of roads, structures and other development;
 - (b) Auxiliary real estate offices used for the sale of lots or houses in subdivisions (i.e., tract office) and other Temporary structures to provide for housing of personnel;
 - (c) Signs advertising a subdivision or tract of land or the lots therein and other temporary signs;
 - (d) Contractor's job sheds used in conjunction with the building of a structure, road, etc.;
 - (e) Short term outdoor gatherings; and
 - (f) Roadside stands.
- (2) The Planning Commission shall have the authority to issue permits for:

- (a) A mobile home as a temporary area for permitted commercial or industrial uses when separated by a minimum of 20 feet from any permanent structure and then placed in accordance with Section 7.02.3;
- (b) A mobile home as a temporary at existing public or private schools when separated from each other and existing buildings the minimum distance specified in the Fire Code or 20 feet, whichever is greater, and when placed in accordance with Section 7.02.3;
- (c) A mobile home as a temporary residence during the construction of a permanent provided there is compliance with Section 7.02.3; and,
- (d) All other requests of a temporary nature that do not fall within the limits of Paragraph (1) of this Section.

SECTION 7.02.3 CONDITIONS RELATIVE TO THE ISSUANCE OF A TEMPORARY USE PERMIT.

- (1) No Temporary Use Permit shall be issued except upon a finding that the proposed structure, activity or use would not permit the permanent establishment within a Zoning District of any use which is not a permitted use or any use for which a Conditional Use Permit is required.
- (2) Reasonable conditions may be imposed in connection with the Temporary Use Permit to minimize the potential impact of the proposed use to other uses in the vicinity. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, the following:
 - (a) Special yards or open spaces;
 - (b) Fences or walls;
 - (c) Control of points of vehicular ingress and egress;
 - (d) Special provisions or signs;
 - (e) Landscaping or bufferyards and maintenance thereof;
 - (f) Maintenance of the grounds and/or parking area;
 - (g) Control of noise, odors or other nuisances; and
 - (h) Limitation of time for certain activities.
- (3) The owner of a mobile home that is authorized as a Temporary use shall comply with the following in addition to any other conditions that may be attached to issuance of a Temporary Use Permit:
 - (a) A Mobile Home Placement Permit shall be obtained prior to placement;
 - (b) The standards for mobile home placement contained in Section 5.09.1 may be applied where a mobile home will be used as temporary office, classroom or similar activity;

- (c) The owner of the lot shall agree in writing to remove the footings, foundation, mobile home and mobile home accessory structures and disconnect sewer, water and other utilities immediately upon expiration of the Temporary Use Permit. The agreement shall further state that the City may make the removal and disconnection and place a lien against the property for the cost of the work if the owner fails to perform the work within 30 days of expiration of the Permit; and
- (d) If a Temporary Use Permit for a mobile home is authorized for occupancy while constructing a dwelling, the following shall also be required:
 - (i) The mobile home shall be occupied by the owner of the lot on which the mobile is located;
 - (ii) A Building Permit for construction of the permanent dwelling shall be obtained prior to the effective date of the Temporary Use Permit and the mobile home shall be placed upon the lot for which the Building Permit has been issued; and,
 - (iii) The owner of the lot shall agree in writing to remove the mobile home from the lot not later than 18 months from the date on which the Building Permit for the housing unit is issued or not later than two months following the completion of the housing unit, whichever is first.
- (4) Any Temporary Use Permit shall clearly set forth the conditions under which the Permit is granted and shall clearly indicate the time period for which the Permit is issued. No Temporary Use Permit shall be transferable to any other owner or occupant, but may be renewable upon expiration if all applicable conditions can again be met. Renewal of a Temporary Use Permit shall follow the same procedure as the initial application.
- (5) All structures for which a Temporary Use Permit is issued shall:
 - (a) Meet all other requirements of the Zoning District in which they are located;
 - (b) Meet all applicable health and sanitation requirements;
 - (c) Meet all applicable Building Code requirements; and,
 - (d) Be removed upon expiration of the Temporary Use Permit, unless renewed.

SECTION 7.02.4 APPLICATION PROCEDURE AND SERVICE CHARGE.

A request for a Temporary Use Permit may be initiated by a property owner or his authorized agent by filing an application with the City upon forms prescribed for this purpose. The application shall include the information set forth in Section 9.02.0 and any drawings or materials essential to the understanding of the proposed use and its relationship to the surrounding properties. The application for a Temporary Use Permit regulated by Section 7.02.2, Paragraph (2), shall be accompanied by a service charge (which is nonrefundable) by the City of Myrtle Creek *Handbook of Fees and Charges*. Applications for uses regulated by Section 7.02.2, Paragraph (1), are exempt from the

service charge. Temporary Use Permits shall be issued for the time period specified by the approving authority but, unless specifically provided otherwise by these regulations, in no case shall a Temporary Use Permit be issued for a period exceeding one year.

R-H**RESIDENTIAL HILLSIDE****SECTION 3.01.0 PURPOSE.**

To serve as a low density residential district which is similar to the purpose and intent of the R-1 District but where it is recognized that densities should vary according to location and topography.

SECTION 3.01.1 INTENT.

The intent of the Residential Hillside District is to maintain and enhance the visual and physical identify of the hills as well as native geologic conditions and to identify areas of potential natural hazards due to soil conditions and/or slope.

SECTION 3.01.2 OBJECTIVE.

The approach set forth in the Residential Hillside District Regulations takes a larger than lot-by-lot perspective in regulating environmental degradation. The objective is to permit maximum development while, at the same time, to protect resources by requiring a site capacity rather than a lot capacity analysis of developmental constraints. The site capacity calculation uses the open space ratio as a standard to ensure protection of the natural environment in a dependable and consistent fashion. In addition, developmental limits are specified on a resource-by-resource basis. For example, no disturbance of a very unstable or rare resource is permitted, whereas, some level of disturbance of a less sensitive feature may be allowed. In summation, the Residential Hillside District Regulations endeavor to:

- (1) Provide site and design standards intended to minimize impacts in hazardous areas;
- (2) Provide review procedures intended to preserve the environmental quality of the area; and,
- (3) Encourage clustered development and a variety of housing types to better utilize lands with topographic constraints.

SECTION 3.01.3 DESIGNATION OF SLOPE HAZARD AREA.

- (1) Property classified as Residential Hillside by the provisions of this Ordinance are recognized as containing areas where slope may be a development factor. The soil series survey and the topography information compiled for the Natural Features Element of the Comprehensive Plan (Support Document) are records of known steep slopes are the basis for establishing the R-H District boundaries. Because the general mapping and studies prepared for the Comprehensive Plan are not intended for development purposes, detailed information for individual parcels or ownerships shall be submitted with each application for development.
- (2) The City Engineer is hereby designated to review all applications for development in the R-H District to identify the slope hazard and to determine the acreage of land with development constraints to implement the Site Capacity Calculation of Section 3.01.8.

The City Engineer shall have the authority to require a Site Investigation Report (as described in Section 5.02.0) to be submitted with an application when, in his professional judgment, the site contains areas of potential hazard likely to be affected by the proposed development except that a Site Investigation Report is specifically required for all building sites containing areas of greater than 25% slope or identified mass movement hazard areas.

- (3) The initial review of an application may provide information calling for an adjustment of the R-H District boundaries for an individual parcel. Property which is zoned R-H, but where slope does not appear to be a development factor, may be corrected legislatively to R-1 [as provided by Section 1.06.1, Paragraph (1)] if all of the following circumstances exist:
- (a) All slopes within the building construction site are less than 12%;
 - (b) The natural development constraints listed in Step 2 of Section 3.01.8 total less than 6% of the site area; and
 - (c) The property is contiguous to an R-1 District or consists of five or more contiguous acres.

SECTION 3.01.4 PERMITTED USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted outright upon site review approval:

- (1) Dwelling, Single-family/detached.
- (2) Residential Home.
- (3) All uses and structures customarily to permitted uses subject to the "Limitations and Exceptions" set forth in Article IV.

SECTION 3.01.5 CONDITIONAL USES AND STRUCTURES.

The following uses and structures and similar uses and structures may be permitted as a conditional use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met:

- (1) Child Day Care Facilities (see Section 4.03.2)
- (2) Church
- (3) Community Building
- (4) Duplex
- (5) Dwelling, Single-family/attached
- (6) Dwelling, Single-family/Semi-detached
- (7) Home Instruction Classes (see Section 4.03.3)

- (8) Planned Development/Residential (subject to the approval criteria set forth in Article V)
- (9) Pre-school/Kindergarten/Nursery School

SECTION 3.01.6 DIMENSIONAL STANDARDS.

- (1) Lot Requirements.
 - (a) In the Residential Hillside District the minimum lot size shall be 10,000 square feet except that a minimum lot size of 6000 square feet shall be allowed for parcels meeting circumstances (a) and (b) of Section 3.01.3, Paragraph (3).
 - (b) The width of the lot at the building line shall be not less than 60 feet.
 - (c) The depth of the lot shall be not less than 90 feet.
 - (d) The maximum lot coverage shall be 40%.
- (2) Yard Requirements (see Article IV for "Exceptions").
 - (a) The minimum front yard shall be 20 feet.
 - (b) The minimum side yard shall be 10 feet except the minimum side yard shall be 20 feet where the side yard abuts a street.
 - (c) The minimum rear yard shall be 10 feet.
- (3) Building Height (see Article IV for "Exceptions").
 - (a) Except as provided by (b) below, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one-story or 15 feet.
 - (b) Where building height will obscure vision from the main floor of other buildings in the area, the maximum building height shall be 20 feet or as otherwise designated by the Planning Commission in order to retain visibility from windows facing the front yard for a minimum of 45 degrees in each direction. The provisions of this paragraph do not apply to the relationship between buildings that are all part of a single development.

SECTION 3.01.7 DENSITY FACTOR.

Elsewhere in this Ordinance, residential land use intensity is expressed as "gross density" or "number of units per gross acre"; the regulations of the R-H District are based on the use of a "density factor" which applies only to buildable land and results in a determination of site capacity. Therefore, the intensity of use of any piece of buildable land within the district is held constant, although the gross density may vary depending on the characteristics of the individual property. The reason for this is that the "gross density" cannot accommodate variations in the physical site. The "density factor" is a direct measurement of the impact of a given development on road systems, community facilities, schools and services. The Residential Hillside "maximum density factor" is 6.88. This is comparable to a "gross density" of four units per acre when calculated for a site which is free of development constraints.

SECTION 3.01.8 SITE CAPACITY CALCULATION.

The site capacity for any proposed development is equal to the net buildable area of the site multiplied by the density factor. The site capacity calculation provides the mechanism for subtracting from the base site area all portions of a site inappropriate for development to determine the extent to which a site may be utilized, given its unique physical characteristics. The following four steps are utilized to calculate the site capacity. The totals of Steps 1, 2 and 3 are used to determine the net buildable site area, which is then multiplied by the density factor to determine the number of units permitted (Step 4).

Step 1: Base Site Area.:

Certain portions of a tract may not be useable for the activity proposed for the site. These are subtracted from the total acreage involved to determine BASE SITE AREA, as follows:

- (a) GROSS SITE as determined by actual on-site survey: _____ Acres
- (b) *Subtract* land constituting roads and land within existing or required right-of-way for streets and rights-of-way or easements for utilities.
(Does not include any future internal roads or utility easements which may ultimately serve the proposed development.) _____ Acres
- (c) *Subtract* land which is not contiguous, or is cut off in such a way that common use is hindered or that the land is unavailable for building purposes or is land that will be calculated separately.
(Such as a separate parcel which does not abut, adjoin or share common boundaries with the rest of the development or land which is cut off from the main parcel by road, railroad, existing land uses or major stream.) _____ Acres
- (d) *Subtract* land which is proposed for non-residential use: _____ Acres
- (e) EQUALS BASE SITE AREA: _____ Acres

Step 2: Protected Land.

All land area consisting of the natural development constraints listed below shall be mapped and measured. The total acreage of each feature shall be multiplied by its respective open space ratio to determine the amount of land to be kept in open space in order to protect the feature. The sum total of all land on the site to be protected from development equals TOTAL PROTECTED LAND, and is calculated as shown on the following page, Table 2.

TABLE 3.01 - DEVELOPMENT CONSTRAINTS CALCULATION

<u>COLUMN A</u> Natural Development Constraints* (see FN1)	<u>COLUMN B</u> Open Space Ratio	<u>COLUMN C</u> Acres of Land Involved (see FN 2)	<u>COLUMN D</u> Protected Land* (Acres in Column C x Open Space Ratio)
Steep Slopes (12% to 15%)	0.60	_____	_____
Steep Slopes (16% to 25%)	0.70	_____	_____
Steep Slopes (16% to 25% plus poor soil suitability** (see FN3)	0.80	_____	_____
	0.95	_____	_____
Steep Slopes (greater than 25%)			
Very Poor Soils Suitability*** (see FN3)	0.95	_____	_____
	1.00	_____	_____
Erosion Hazard Area	1.00	_____	_____
Bluffs	0.98	_____	_____
Ravines	0.80	_____	_____
Ravine Buffers			
Ponds or Watercourse	1.00	_____	_____
	0.50	_____	_____
Drainageways			
TOTAL LAND IN NATURAL FEATURE:		_____ Acres	
TOTAL PROTECTED LAND:		_____ Acres	

*FN1: Sections 5.04.0 to 5.04.6 detail how development of such natural features shall be restricted. See Article II for a definition of each feature.
 **FN2: This total is the actual acres involved. Do not use the land area more than once. For example, if there is land containing two of the features listed, the feature with the greater open space ratio shall be used.
 ***FN3: See "Soils Information Chart", Myrtle Creek Comprehensive Plan; Support Document, Natural Features Element.

Step 3: Recreation/Common Land.

When it is required by this Ordinance, the Subdivision Ordinance of the City or as a condition of approval, that a certain amount of land be set aside for park purposes, recreation areas, common land or other open space purposes, this calculation provides guidelines to ensure that a minimum amount of land not restricted by the two previous steps is retained for such purposes. (Exception: Residential sites which would be required to provide less than one-quarter acre by the following calculation are exempted from Step 3 and sum total of zero shall be used.) Total recreation land is calculated as follows:

Take: Base Site Area (Step 1 Total): _____ Acres

Subtract: Total acres of land in natural feature
 (Step 2, Column C) - _____ Acres

Equals: TOTAL UNRESTRICTED LAND: + _____ Acres

Multiply: Above total by 6%:
 x 6%

Equals: Total recreation land required: = _____ Acres

Subtract: Any protected land which will be
 improved for recreation - _____ Acres

Equals: TOTAL RECREATION LAND REMAINING
 TO BE PROVIDED: _____ Acres

Step 4: Determination of Site Capacity.

Individual site capacity is determined by calculating the net buildable site area. The number of dwelling units permitted is determined by multiplying the density factor by the net buildable site area. The calculations are as follows:

Take: Total protected land (Step 2, Column D): Acres

Add: Total recreation land remaining
to be provided
(Step 3 Total) Acres

Equals: TOTAL OPEN SPACE: = Acres

Take: Base Site Area (Step 1 Total): Acres

Multiply: By Open Space Ratio (40%): x 40%

Equals: MINIMUM REQUIRED OPEN SPACE: = Acres

Take: Base Site Area (Step 1 Total): Acres

Subtract: Total Open Space (from above),
or Minimum Required Open Space
whichever is greater): - Acres

Equals: NET BUILDABLE SITE AREA: = Acres

Take: Net Buildable Site Area (above): Acres

Multiply: By maximum density factor (6.88): x 6.88

Equals: NUMBER OF DWELLING UNITS PERMITTED:
(Do not round off, use lower whole number) Units

SECTION 3.01.9 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

Notwithstanding the Conditional Use provisions of Section 3.01.5, any project involving the erection of a new building or structure; the enlargement in height or ground coverage; or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Commission shall conduct the site review for all such development in the R-H District except for projects involving the construction of a single family/detached dwelling located on a single parcel, which will be reviewed by the Planning Department;
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV

R-1**LOW DENSITY RESIDENTIAL****SECTION 3.02.0 PURPOSE.**

To serve as a low density residential area protected as to residential quality, value, identity, environmental privacy, light, air and outdoor space.

SECTION 3.02.1 INTENT.

The intent of the R-1 District is to promote the development of high quality residential neighborhoods; to encourage the construction of higher income housing by retaining areas for large lot development; and to assure that development will conform to systems and facilities which support the residential quality of the area.

SECTION 3.02.2 PERMITTED USES AND STRUCTURES.

The following uses and structures are permitted outright:

- (1) Dwelling, Single-family/detached
- (2) Residential Home
- (3) All uses and structures customarily accessory to permitted uses subject to the "Limitations and Exceptions" set forth in Article IV.
- (4) Child care and other home occupations (see Section 4.03.).

SECTION 3.02.3 CONDITIONAL USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met.

- (1) Child Day Care Facilities (see Section 4.03.2)
- (2) Community Building
- (3) Church
- (4) Duplex
- (5) Dwelling, Single-family/attached
- (6) Dwelling, Single-family/semi-detached
- (7) Golf Course or Driving Range
- (8) Home Instruction Classes (see Section 4.03.3)
- (9) Planned Development/Residential subject to the approval criteria as set forth in Article V.

- (10) Pre-School/Kindergarten/Nursery School

SECTION 3.02.4 DIMENSIONAL STANDARDS.

- (1) Lot Requirements.

- (a) The minimum lot size shall be 6000 square feet.
- (b) The width of the lot at the "building line" shall be not less than 60 feet.
- (c) The depth of the lot shall be not less than 90 feet.
- (d) The maximum lot coverage shall be 40%.

- (2) Yard Requirements (see Article VI for exceptions).

- (a) The minimum front yard shall be 20 feet.
- (b) The minimum side yard shall be 10 feet except the minimum side yard shall be 20 feet where the side yard abuts a street.
- (c) The minimum rear yard shall be 10 feet.

- (3) Building Height (see Article VI for exceptions).

In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one story or 15 feet.

SECTION 3.02.5 DENSITY.

The residential density shall be a maximum of five (5) units per gross acre but in no case less than 5500 square feet per unit (net).

SECTION 3.02.6 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

Notwithstanding the Conditional Use provisions of Section 3.02.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

R-2**MEDIUM DENSITY RESIDENTIAL****SECTION 3.03.0 PURPOSE.**

To serve as a medium density residential area providing a transition from traditional single-family residential neighborhoods to higher density multiple-family residential development.

SECTION 3.03.1 INTENT.

The intent of the R-2 District is to promote the development of high quality residential neighborhoods composed of a variety of housing types and price ranges commensurate with the needs and economic means of the community.

SECTION 3.03.2 PERMITTED USES AND STRUCTURES.

The following uses and structures are permitted outright:

- (1) Apartments (as a secondary use; defined in Article II).
- (2) Boarding, Lodging, Rooming House
- (3) Child Care & other home occupations; see Section 4.03.0.
- (4) Duplex
- (5) Dwelling, Multiple-family
- (6) Dwelling, Single-family/attached
- (7) Dwelling, Single-family/detached
- (8) Dwelling, Single-family/semi-detached
- (9) Mobile Home Park subject to the conditions, limitations, construction & dimensional standards specified in Article V.
- (10) Residential Home
- (11) Retirement Home
- (12) All uses and structures customarily accessory to permitted uses subject to the "Limitations and Exceptions" set forth in Article IV

SECTION 3.03.3 CONDITIONAL USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met.

REGULATIONS

- (1) Child Day Care Facilities (see Section 4.03.2).
- (2) Church
- (3) Community Building
- (4) Golf Course and Driving Range
- (5) Home Instruction Classes (see Section 4.03.3)
- (6) Nursing Home/Rest Home/Convalescent Home
- (7) Planned Development/Residential subject to the approval criteria set forth in Article V.
- (8) Pre-School/Nursery School/Kindergarten
- (9) Religious Quarters

SECTION 3.03.4 DIMENSIONAL STANDARDS.

- (1) Lot Requirements.
 - (a) The minimum lot size shall be 6000 square feet.
 - (b) The width of the lot at the "building line" shall be not less than 60 feet.
 - (c) The depth of the lot shall be not less than 90 feet.
 - (d) The maximum lot coverage shall be 40%.
- (2) Yard Requirements (see Article VI for exceptions).
 - (a) The minimum front yard shall be 20 feet.
 - (b) The minimum side yard shall be 10 feet except the minimum side yard shall be 20 feet where the side yard abuts a street.
 - (c) The minimum rear yard shall be 20 feet.
- (3) Building Height (see Article VI for exceptions).

In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one story or 15 feet.

SECTION 3.03.5 DENSITY.

The residential density shall be a maximum of ten (10) units per gross acre but in no case less than 3000 square feet per unit.

SECTION 3.03.6 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

Notwithstanding the Conditional Use provisions of Section 3.03.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

REGULATIONS

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

R-3

HIGH DENSITY RESIDENTIAL

SECTION 3.04.0 PURPOSE.

To serve as a high density, general residential district allowing a large variety of housing types together with certain non-residential uses that are without conflict.

SECTION 3.04.1 INTENT.

The intent of the R-3 District is to provide adequate amounts of high density residential development within appropriate areas of the presently developed City and to provide for the location of professional service activities which, in accordance with the Comprehensive Plan, are considered compatible with high density residential areas.

SECTION 3.04.2 PERMITTED USES AND STRUCTURES.

The following uses and structures are permitted outright:

- (1) Apartments (as a secondary use as defined in Article II).
- (2) Boarding, Lodging, Rooming House
- (3) Child care and other home occupations (see Section 4.03.0).
- (4) Child Day Care Facilities (see Section 4.03.2).
- (5) Duplex
- (6) Dwelling, Multiple-family
- (7) Dwelling, Single-family/attached
- (8) Dwelling, Single-family/detached
- (9) Dwelling, Single-family/semi-detached
- (10) Nursing Home/Rest Home/Convalescent Home
- (11) Pre-school/Nursery School/Kindergarten
- (12) Religious Quarters
- (13) Residential Home
- (14) Retirement Home
- (15) All uses and structures customarily accessory to permitted uses subject to the "Limitations and Exceptions" as set forth in Article IV.

SECTION 3.04.3 CONDITIONAL USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by

observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met.

- (1) Audiovisual or Recording Studio
- (2) Beauty or Barber Shop
- (3) Bed and Breakfast
- (4) Bicycle Sales and Repair Shop
- (5) Church
- (6) Community Building
- (7) Locksmith
- (8) Mailing/Addressing Service without fleet vehicle storage.
- (9) Mobile Home Park subject to the approval criteria set forth in Article V.
- (10) Philanthropic or Eleemosynary Institution
- (11) Planned Development/Professional Office subject to the approval criteria set forth in Article V.
- (12) Planned Development/Residential subject to the approval criteria set forth in Article V.
- (13) Professional Offices
- (14) Schools, Business and Trade (which are similar to uses permitted outright or conditionally, and which are conducted wholly within an enclosed building).
- (15) Stenographic Service/Notary Public
- (16) Studio (including music, dancing, art, crafts, health or photography).
- (17) Telephone Answering Service
- (18) Other similar uses and structures

SECTION 3.04.4 DIMENSIONAL STANDARDS

- (1) Lot Requirements.
 - (a) The minimum lot size shall be 6000 square feet.
 - (b) The width of the lot at the "building line" shall be not less than 60 feet.
 - (c) The depth of the lot shall be not less than 90 feet.
 - (d) The maximum lot coverage shall be 50%.
- (2) Yard Requirements (see Article VI for exceptions).
 - (a) The minimum front yard shall be 20 feet.
 - (b) The minimum side yard shall be 10 feet for one story, 15 feet for two story, except the minimum side yard shall be 20 feet where the side yard abuts a street.

- (c) The minimum rear yard shall be 25 feet. The Planning Commission, in conducting the site review, may specify lesser rear yards for non-residential uses.
- (3) **Building Height (see Article VI for exceptions).**
In residential districts, no main building shall exceed a height of 35 feet and no accessory building shall exceed a height of one story or 15 feet provided, however, that accessory structures approved through the Conditional Use Permit provisions may be built to a height of 24 feet.

SECTION 3.04.5 DENSITY.

The residential density shall be a maximum of 25 units per gross acre but in no case less than 1300 square feet per unit (net).

SECTION 3.04.6 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

Notwithstanding the Conditional Use provisions of Section 3.04.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

C-1**CENTRAL BUSINESS DISTRICT****SECTION 3.10.0 PURPOSE.**

To serve as the primary retail and service center for residents of the City and adjacent areas by providing for the location of the greatest variety of retail stores or businesses.

SECTION 3.10.1 INTENT.

To maintain the Central Business District as the principal retail area within the City by protecting the location from conflicting land uses; to promote increased retail sales activity by encouraging revitalization through rehabilitation; and to encourage the development of additional parking and the formation of special parking districts.

SECTION 3.10.2 PERMITTED USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted outright provided the use is conducted wholly within an enclosed building (other than parking areas) and there is no noise, odors, smoke, vibration or other deleterious influences detectable beyond the property line.

Retail Sales:

- (1) Agricultural supply store
- (2) Appliance sales and service (household & small appliance)
- (3) Automobile supply and parts store
- (4) Bakery, provided the principal operation is for retail sales on the premises.
- (5) Bicycle sales and repair shop
- (6) Book, stationery and business supply store
- (7) Clothing store
- (8) Contractors sales and repair shop (such as plumbing, heating, electrical and glass)
- (9) Convenience store or market
- (10) Department, variety, dry goods or notions store
- (11) Florist
- (12) Food and drug store, meat market (retail)
- (13) Furniture store
- (14) Garden supply, nursery or greenhouse provided the principal operation is for retail sales on the premises (no outside storage or display permitted).
- (15) Hardware and building supply (no outside storage or display permitted)
- (16) Interior decorating shop (such as floor covering, wallpaper and drapery sales).
- (17) Jewelry or gift store

REGULATIONS

- (18) Musical instrument, record or tape sales
- (19) Pet store, including supplies and grooming
- (20) Second hand goods store/pawn shop (no outside storage or display permitted)
- (21) Shoe store or shoe repair
- (22) Sign shop (painting and sales)
- (23) Sporting equipment sales
- (24) Toy or hobby sales
- (25) Wholesale office and showroom with merchandise on the premises limited to small parts and samples

Services and Trades:

- (26) AudioVisual or recording studio
- (27) Bank or savings and loan
- (28) Beauty or barber shop
- (29) Bonding company, detective agency
- (30) Dressmaking, millinery or tailor shop
- (31) Dry cleaning establishment (retail) containing less than 3000 square feet of processing area and excluding those using highly volatile or combustible material or using high pressure steam tanks or boilers.
- (32) Laundromat or dry cleaning (self-service)
- (33) Locksmith
- (34) Mailing or addressing service (without fleet vehicle storage)
- (35) Photocopy or blueprinting service
- (36) Professional offices
- (37) Stenographic service, notary public
- (38) Taxi dispatch center
- (39) Telephone answering service

Institutional and Instructional:

- (40) Child day care facilities (see section 4.03.2)
- (41) Church, subject to the dimensional standards of the R-2 District.
- (42) Museum
- (43) Pre-school/kindergarten/nursery school
- (44) Residential care facility
- (45) Schools, business or trade, (which are similar to permitted uses.
- (46) Studio (including music, dance, art, crafts, health or photography)

Amusement and Recreation:

- (47) Indoor amusement enterprise (including arcade, pool hall, bowling alley, skating rink, etc)

- (48) Recreation club/health spa
- (49) Restaurant, cafe, delicatessen and other sit-down eating establishments as defined in Article II.
- (50) Tavern, cocktail lounge
- (51) Theater, indoor

Miscellaneous and Accessory Uses:

- (52) All accessory uses and structures meeting the "Limitations and Exceptions" as set forth in Article IV.
- (52) Apartments (as a secondary use; defined in Article II)
- (53) Bed and Breakfast
- (54) or similar public transportation facility
- (55) Laboratory (medical, dental, experiment, research or testing)
- (56) Parking structure or public parking lot
- (57) (including newspaper), Publishing or Engraving service
- (58) Rubber or metal stamp manufacture provided the principal operation is for retail sales on the premises.
- (59) Single-family dwelling, limited to homes currently listed on the Myrtle Creek Historic Resources Register.
- (60) Veterinary Office or animal hospital provided there are no outside runs or pens.

SECTION 3.10.3 CONDITIONAL USES AND STRUCTURES

The following uses and structures and similar uses and structures are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met. All uses shall be conducted wholly within an enclosed building (other than parking, vehicle sales or patron service areas) and there shall be no noise, odor, smoke, vibration or other deleterious influences detectable beyond the property line.

- (1) Ambulance/emergency service (and similar uses requiring audible warning devices).
- (2) Auditorium, exhibition hall or community building
- (3) Automobile repair garage (wholly enclosed) provided there is no heavy duty truck or heavy equipment repair
- (4) Automobile sales lot (includes sales or rental of boats, recreation vehicles, travel trailers, light duty trucks and similar vehicles, new or used).
- (5) Automobile service station (excluding major repair)
- (6) Boarding, lodging, rooming house
- (7) Club, lodge or fraternal organization facility
- (8) Drive-up windows and stalls for existing uses (i.e., banks)

REGULATIONS

- (9) Film exchange and other drive-in/drive-up/drive-through drop boxes
- (10) Hotel, motel or motor court
- (11) Mortuary, undertaking and funeral parlor (excluding crematorium)
- (12) Philanthropic or eleemosynary institution
- (13) Planned Development/Commercial or Professional Office subject to the approval criteria set forth in Article V.
- (14) Restaurant, Fast Food (as defined in Article II)
- (15) Schools, business or trade which are similar to uses permitted conditionally.
- (16) Taxidermy shop (no outside storage or display permitted)
- (17) Upholstery shop/furniture repair (no outside storage permitted)
- (18) Other similar uses and structures

SECTION 3.10.4 DIMENSIONAL STANDARDS

- (1) Yard Requirements (see Article VI for exceptions).
 - (a) The minimum side yard shall be 15 feet where adjoining any residential district.
 - (b) The minimum rear yard shall be 25 feet where adjoining any residential district.
 - (c) Bufferyards shall consist of landscaping and improvements in accordance with the standards for commercial and industrial uses contained in Article V.
- (2) Building Height (see Article VI for exceptions).
The height of a building in the C-1 District shall not exceed 50 feet.

SECTION 3.10.5 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

Notwithstanding the Conditional Use provisions of Section 3.10.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and,
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

C-2**NEIGHBORHOOD COMMERCIAL****SECTION 3.12.0 PURPOSE.**

The Neighborhood Commercial classification provides for the orderly and attractive development of commercial land uses in close proximity to adjacent residential districts. The zone is also intended to serve local neighborhood needs rather than provide a full commercial area for the entire community and to provide for a desirable mixing of high density residential uses with the limited commercial land uses. The commercial uses allowed in this district are selected for their compatibility with residential uses and ability to meet the frequently recurring needs of the neighborhood.

SECTION 3.12.1 INTENT.

To provide for the location of appropriate commercial development along arterials which traverse primarily residential neighborhoods and to act as a buffer district by providing for design curtailments intended to minimize potential adverse effects on surrounding residential districts. To preserve this intent and to alleviate existing, and prevent future, inefficient or hazardous situations, adjacent uses will be encouraged to combine accesses and off-street parking areas while uses located at intersections will be encouraged to utilize secondary streets for the location of access drives wherever possible. New development will be encouraged to group in "neighborhood convenience centers".

SECTION 3.12.2 PERMITTED USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted outright provided the use is conducted wholly within an enclosed building (other than parking areas) and there is no noise, odors, smoke, vibration or other deleterious influences detectable beyond the property line.

Retail Sales:

- (1) Automobile Supply and Parts Store
- (2) Bakery, provided the principal operation is for retail sales on the premises.
- (3) Bicycle sales and repair shop
- (4) Book, Stationery and Business Supply Store
- (5) Convenience Store or Market
- (6) Florist
- (7) Food and Drug Store, Meat Market (retail)
- (8) Interior Decorating Shop (such as floor covering, wallpaper and drapery sales).
- (9) Jewelry or Gift Store
- (10) Musical Instrument, Record or Tape Sales
- (11) Pet Store, including supplies and grooming
- (12) Shoe Store or Shoe Repair

- (13) Sporting Equipment Sales
- (14) Toy or Hobby Sales
- (15) Wholesale Office and Showroom with merchandise on the premises limited to small parts and samples.

Services and Trades:

- (16) Audio-Visual or Recording Studio
- (17) Bank or Savings and Loan
- (18) Beauty or Barber Shop
- (19) Bonding Company, Detective Agency
- (20) Dressmaking, Millinery or Tailor Shop
- (21) Dry Cleaning Establishment (retail) containing less than 3000 square feet of processing area and excluding those using highly volatile or combustible material or using high pressure steam tanks or boilers.
- (22) Laundromat or Dry Cleaning (self-service)
- (23) Locksmith
- (24) Mailing or Addressing Service (without fleet vehicle storage).
- (25) Photocopy or Blueprinting Service
- (26) Professional Offices
- (27) Stenographic Service, Notary Public
- (28) Taxi Dispatch Center
- (29) Telephone Answering Service

Institutional and Instructional:

- (30) Child Day Care Facilities (see Section 4.03.2)
- (31) Church, subject to the dimensional standards of the R-2 District.
- (32) Pre-school/Kindergarten/Nursery School
- (33) Residential Care Facility
- (34) Schools, business or trade (which are similar to permitted uses.
- (35) Studio (including music, dance, art, crafts, health or photography).

Amusement and Recreation:

- (36) Recreation Club/Health Spa
- (37) Restaurant, Cafe, Delicatessen, and other sit-down eating establishments as defined in Article II.
- (38) Theater, indoor

Miscellaneous and Accessory Uses:

- (39) All accessory uses and structures meeting the "Limitations and Exceptions" as set forth in Article IV.
- (40) Adult Care Home
- (41) Apartments (as a secondary use; defined in Article II)

- (42) Bed and Breakfast
- (43) Laboratory (medical, dental, experiment, research or testing).
- (44) Parking structure or public parking lot
- (45) Single-family dwelling limited to homes currently listed on the Myrtle Creek Historic Resources Register.
- (46) Veterinary Office or Animal Hospital provided there are no outside runs or pens.

SECTION 3.12.3 CONDITIONAL USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met. All uses shall be conducted wholly within an enclosed building, unless excepted (i.e., parking and service areas are excepted) and there shall be no noise, odor, smoke, vibration or other deleterious influences detectable beyond the property line.

- (1) Ambulance/Emergency Service (and similar uses requiring audible warning devices).
- (2) Auditorium, Exhibition Hall or Community Building
- (3) Automobile Repair Garage (wholly enclosed) provided there is no heavy duty truck or heavy equipment repair.
- (4) Automobile Service Station (excluding major repair)
- (5) Boarding, Lodging, Rooming House subject to the dimensional standards of the R-3 District.
- (6) Car Wash
- (7) Club, Lodge or Fraternal Organization Facility
- (8) Drive-Up Windows and stalls for existing uses (i.e., banks)
- (9) Dwelling, Multiple-family; Single-family/attached or semi-detached; or Duplex subject to the dimensional standards of the R-3 District.
- (10) Film exchange and other drive-in/drive-up/drive-through drop boxes
- (11) Garden Supply/Retail Nursery (exterior display permitted provided area is enclosed by fence or screening a minimum of 4' in height).
- (12) Golf Course or Driving Range
- (13) Golf, Miniature
- (14) Hotel, Motel or Motor Court
- (15) Indoor Amusement Enterprise (includes arcade, pool hall, bowling alley, skating rink, etc).
- (16) Museum
- (17) Nursing Home, Rest Home or Convalescent Home
- (18) Philanthropic or Eleemosynary Institution

- (19) Planned Development/Commercial or Professional Office subject to the approval criteria set forth in Article V.
- (20) Religious Quarters subject to the dimensional standards of the R-3 District.
- (21) Restaurant, Fast Food (as defined in Article II)
- (22) Retirement Home subject to the dimensional standards of the R-3 District
- (23) Schools, business or trade which are similar to uses permitted conditionally.
- (24) Sign Shop (painting and sales)
- (25) Tavern or Cocktail Lounge
- (26) Taxidermy Shop (no outside storage or display permitted)
- (27) Upholstery Shop/Furniture Repair (no outside storage permitted)
- (28) Other similar uses and structures

SECTION 3.12.4 DIMENSIONAL STANDARDS.

- (1) Yard Requirements (see Article VI for exceptions).
 - (a) The minimum front yard shall be 10 feet.
 - (b) Side yards shall have a combined width which totals a minimum of ten feet except that a bufferyard with a minimum width of 15 feet shall be required where the side yard adjoins a residential district.
 - (c) A bufferyard with a minimum depth of 25 feet shall be required where the rear yard adjoins a residential district.
 - (d) Bufferyards shall consist of landscaping and improvements in accordance with the standards for commercial and industrial uses contained in Article V.
- (2) Building Height (see Article VI for exceptions).
The height of a building in the C-2 District shall not exceed 50 feet.
- (3) Minimum Zone Size.
Areas proposed for Zone Change to C-2 shall be contiguous to an existing C-2 District or shall consist of a minimum of three (3) acres.

SECTION 3.12.5 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

Notwithstanding the Conditional Use provisions of Section 3.12.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and,

- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

C-3**GENERAL COMMERCIAL****SECTION 3.14.0 PURPOSE.**

To serve as a General Commercial zone and to provide for the location of commercial development of a more intense character (heavy commercial).

SECTION 3.14.1 INTENT.

To encourage the more extensive commercial development to locate along appropriate sections of South Main Avenue while protecting the overall visual character and appearance of the area. To preserve this intent, manufacturing of products other than that which is clearly incidental to the business conducted on the premises will not be permitted. Outdoor storage areas which are inherent to the operation are permitted provided that all are concealed (screened) from view of neighboring properties and abutting streets (use of plant materials for screening is encouraged). Storage areas considered potentially hazardous shall be enclosed.

SECTION 3.14.2 PERMITTED USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted outright provided there is no noise, odors, smoke, vibration or other deleterious influences detectable beyond the property line.

Retail Sales:

- (1) Agricultural Supply Store
- (2) Appliance (household and small appliance) Appliance sales and service provided outside storage areas are fenced and screened.
- (3) Auction House (excluding livestock and vehicles) provided outside storage areas are fenced and screened (exterior display areas are prohibited).
- (4) Automobile Sales Lots (including sales or rental of boats, recreational vehicles, travel trailers, light duty trucks and similar vehicles, whether new or used).
- (5) Automobile Supply and Parts Store.
- (6) Bakery, provided the principal operation is for retail sales on the premises.
- (7) Bicycle sales and repair shop.
- (8) Book, stationery and business supply store.
- (9) Clothing Store.
- (10) Contractors Sales and Repair Shop (such as plumbing, heating, electrical and glass provided outside storage areas are fenced and screened).
- (11) Convenience Store or Market.
- (12) Department, , Dry Goods or Notions Store.
- (13) Florist.
- (14) Food and Drug Store, Meat Market (retail).

- (15) Furniture Store.
- (16) Garden Supply, Nursery or Greenhouse provided the principal operation is for retail sales on the premises and provided outside storage areas are screened.
- (17) Hardware and Building Supply provided outside storage areas are fenced and screened.
- (18) Interior Decorating Shop (such as floor covering, wallpaper and drapery sales).
- (19) Jewelry or Gift Store.
- (20) Musical Instrument, Record or Tape Sales.
- (21) Pet Store, including supplies and grooming.
- (22) Second Hand Goods Store/Pawn Shop provided outside storage areas are fenced and screened (exterior display areas are prohibited).
- (23) Shoe Store or Shoe Repair.
- (24) Sign Shop (painting and sales) provided outside storage areas are fenced and screened.
- (25) Sporting Equipment Sales.
- (26) Toy or Hobby Sales.
- (27) Wholesale Office and Showroom with merchandise on the premises limited to small parts and samples.

Services and Trades:

- (28) Ambulance/Emergency Service.
- (29) Audio-Visual or Recording Studio.
- (30) Automobile Repair Garage (provided there is no heavy duty truck or equipment repair and all storage areas are screened).
- (31) Automobile Service Station (excluding major repair).
- (32) Bank or Savings and Loan.
- (33) Beauty or Barber Shop.
- (34) Bonding Company, Detective Agency.
- (35) Car Wash.
- (36) Dressmaking, Millinery or Tailor Shop.
- (37) Dry Cleaning Establishment (retail) containing less than 3000 square feet of processing area and excluding those using highly volatile or combustible material or using high pressure steam tanks or boilers.
- (38) Laundromat or Dry Cleaning (self-service).
- (39) Locksmith.
- (40) Mailing or Addressing Service provided fleet vehicle storage areas are screened.
- (41) Parcel Delivery Service provided fleet vehicle storage areas are screened.
- (42) Photocopy/Blueprinting Service.
- (43) Professional Offices.
- (44) Stenographic Service, Notary Public.

- (45) Taxidermy Shop conducted wholly within an enclosed building (no outside storage of display permitted).
- (46) Taxi Dispatch Center.
- (47) Telephone Answering Service.
- (48) Upholstery Shop or Furniture Repair provided outside storage areas are fenced and screened.

Institutional and Instructional:

- (49) Child Day Care Facilities (see Section 4.03.2).
- (50) Mortuary, Undertaking and Funeral Parlor conducted wholly within an enclosed building (except crematorium).
- (51) Museum.
- (52) Philanthropic or Eleemosynary Institution.
- (53) Pre-school/Kindergarten/Nursery School.
- (54) Residential Care Facility.
- (55) Schools, business or trade, (which are similar to permitted uses).
- (56) Studio (including music, dance, art, crafts, health or photography).

Amusement and Recreation:

- (57) Auditorium, Exhibition Hall or Community Building.
- (58) Club, Lodge or Fraternal Organization Facility.
- (59) Golf, Miniature.
- (60) Indoor amusement enterprise (including arcade, pool hall, bowling alley, skating rink, etc).
- (61) Recreation Club/Health Spa.
- (62) Restaurant, Cafe, Delicatessen, including Fast-Food Restaurant.
- (63) Tavern, Cocktail Lounge.
- (64) Theater, indoor.

Miscellaneous and Accessory Uses:

- (65) All accessory uses and structures meeting the "Limitations and Exceptions" as set forth in Article IV.
- (66) Apartments (as a secondary use; defined in Article II).
- (67) Bed and Breakfast.
- (68) Bus or similar public transportation facility.
- (69) Hotel, Motel or Motor Court.
- (70) Laboratory (medical, dental, experiment, research or testing) provided all outside storage areas are fenced and screened.
- (71) Parking structure or public parking lot.
- (72) Printing (including newspaper), Publishing or Engraving Service containing less than 5000 square feet of processing area and conducted wholly within an enclosed building.

- (73) Rubber or metal stamp manufacture provided the principal operation is for retail sales on the premises.
- (74) Single-family dwelling limited to homes currently listed on the Myrtle Creek Historic Resources Register.
- (75) Veterinary Office or Animal Hospital provided there are no outside runs or pens.

SECTION 3.14.3 CONDITIONAL USES AND STRUCTURES

The following uses and structures and similar uses and structures are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met.

- (1) Automobile Tire Sales (including tire recapping) provided outside storage areas are fenced and screened.
- (2) Cabinet Shop and similar wood products manufacturing provided the principle operation is for retail sales on the premises and any outside storage is fenced and screened.
- (3) Drive-Up Windows and stalls for existing uses (i.e., banks).
- (4) Film exchange and other drive-in/drive-up/drive-through drop boxes.
- (5) Horticultural Nursery/Greenhouse (commercial distributor).
- (6) Ice Manufacture, Warehouse Storage and Dispensing Facility conducted wholly within an enclosed building and provided that fleet vehicle storage is screened.
- (7) Mobile Home Sales Lot.
- (8) Planned Development/Commercial or Professional Office subject to the approval criteria set forth in Article V.
- (9) Schools, Business or Trade which are similar to uses permitted conditionally.
- (10) Theater, outdoor (drive-in).
- (11) Storage yard for freight trucks and trailers provided storage areas are fenced and screened as required by Article V.
- (12) Heavy truck and trailer repair limited to routine maintenance provided storage of materials are completely enclosed within a structure and truck parking areas are fenced and screened as required by Article V.

SECTION 3.14.4 DIMENSIONAL STANDARDS

- (1) Yard Requirements (see Article VI for exceptions).
 - (a) The minimum side yard shall be 15 feet where adjoining any residential district.
 - (b) The minimum rear yard shall be 25 feet where adjoining any residential district.
 - (c) Bufferyards shall consist of landscaping and improvements in accordance with the standards for commercial and industrial uses contained in Article V.
- (2) Building Height (see Article VI for exceptions).

The height of a building in the C-3 District shall not exceed 50 feet.

(3) Minimum Zone Size.

Areas proposed for zone change to C-3 shall be contiguous to an existing C-3 District or shall consist of a minimum of three (3) acres.

SECTION 3.14.5 DEVELOPMENT STANDARDS AND REVIEW CRITERIA

Notwithstanding the Conditional Use provisions of Section 3.14.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and,
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

GM**GENERAL MANUFACTURING****SECTION 3.20.0 PURPOSE.**

The purpose of the General Manufacturing District is to protect land with industrial potential from conflicting land uses and to provide use and design standards intended to preserve the environmental quality.

SECTION 3.20.1 INTENT.

To serve as a General Manufacturing District intended for the location of non-noxious industry. Provides for the location of those commercial uses that operate in conjunction with industrial uses and provides for the conditional location of the more intensive industrial uses. To protect the overall visual character of the area, outdoor operations and/or storage areas shall be concealed (screened) from view of abutting arterials or neighboring non-industrial districts (the use of plant materials for screening shall be encouraged).

SECTION 3.20.2 PERMITTED USES AND STRUCTURES.

The following uses and structures and similar uses and structures are permitted outright upon site review approval:

Manufacturing.

- (1) Assembly, manufacture or repair of small electronic parts and supplies and other similar precision assembly including optical goods, scientific and photographic instruments, medical and dental equipment, small business machines, watches and timing devices.
- (2) Assembly, manufacture, repair or storage of articles from the following listed, previously prepared, materials: bone, cellophane, cloth, cord, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semi-precious stone or metal, shell, textiles, wax, wire or yarn.
- (3) Compounding, packaging or storing of cosmetics, drugs, perfumes, pharmaceuticals, soap or toiletries, excluding all processing involving refining or rendering of fats or oils.
- (4) Dry cleaning processing plant, dyeing or commercial laundry.
- (5) Ice manufacture, warehouse storage and dispensing facility.
- (6) Mobile home manufacture and repair facility (may include sales lot).
- (7) Musical instrument manufacture and assembly plant.
- (8) Printing (including newspaper), publishing or engraving, blueprinting and other reproduction processing plant.
- (9) Processing, packaging or storing of food or beverage (excluding those involving distillation, fermentation, rendering of fats or oils, or slaughtering).
- (10) Rubber or metal stamp manufacture.

- (11) Sign manufacturing, painting or repair, including sales.
- (12) Tire recapping; auto, truck and heavy equipment.
- (13) Wood products manufacture and assembly (including cabinet making, carpentry and furniture manufacturing).

Other Uses.

- (14) Ambulance/emergency service.
- (15) Auction house.
- (16) Automobile service station.
- (17) Caretaker's residence and other accessory uses and structures meeting the "Limitations and Exceptions" set forth in Article IV.
- (18) Contractors sales and repair shop such as plumbing, heating, electrical and glass wholesale and retail sales.
- (19) Freight depot.
- (20) Hardware and building supply (including lumber yard).
- (21) Horticultural nursery/greenhouse (commercial distributor).
- (22) Laboratory (medical, dental, experiment, research, testing).
- (23) Monument sales and manufacture.
- (24) Parcel delivery service.
- (25) Repair, rental, sales or servicing of machinery, implements and heavy equipment.
- (26) Retail sales office or showroom for items manufactured, processed, or compounded on the premises.
- (27) Schools, business or trade involving manufacturing, processing or testing or use of heavy equipment or machinery.
- (28) Storage yard for trucks, machinery, implements and equipment.
- (29) Taxidermy shop.
- (30) Truck or car wash.
- (31) Upholstery shop/furniture repair.
- (32) Vehicle and heavy equipment repair garage (including diesel truck service facility and automobile/truck painting garage)
- (33) Veterinary hospital or kennel provided that open runs or pens are located more than 200 feet from non-industrially zoned property.
- (34) Warehouse, including distribution and sales on the premises.
- (35) Automobile, truck and heavy equipment parts supply.

SECTION 3.20.3 CONDITIONAL USES AND STRUCTURES

The following uses are permitted as a Conditional Use subject to the procedures of Article VII, whereupon, (a) a Conditional Use Permit may be granted when the criteria

for approval are met or can be met by observance of conditions; or (b) a Conditional Use Permit may be denied if the Findings of Fact conclude that the permit criteria cannot be met.

- (1) Bulk storage of flammable or other dangerous materials including fuel distribution facility.
- (2) Bus or similar public transportation facility.
- (3) Lumber or paper processing plant.
- (4) Planned Development/Industrial Park subject to the approval criteria set forth in Article V.
- (5) Production of items sold in agricultural supply stores such as feed and fertilizer.
- (6) Rail yards and rail depots.
- (7) Sheet metal fabrication.
- (8) Other uses and structures which are within the purpose and intent of the General Manufacturing District.

SECTION 3.20.4 DIMENSIONAL STANDARDS

- (1) Minimum Zone Size.

Areas proposed for zone change to General Manufacturing shall be contiguous to an existing General Manufacturing District or shall consist of a minimum of ten (10) acres.

- (2) Yard Requirements (see Article VI for exceptions).

- (a) The minimum side yard shall be 25 feet where adjoining any non-industrial district.
- (b) The minimum rear yard shall be 45 feet where adjoining any non-industrial district.
- (c) Bufferyards shall consist of landscaping and improvements in accordance with the standards for commercial and industrial uses contained in Article V.

- (3) Building Height (see Article VI for exceptions).

The height of a building in the General Manufacturing District shall not exceed 50 feet.

SECTION 3.20.5 DEVELOPMENT STANDARDS AND REVIEW CRITERIA

Notwithstanding the Conditional Use provisions of Section 3.20.3, any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any building or structure shall:

- (1) Be reviewed in accordance with the site review criteria contained in Article V. The Planning Department shall conduct the site review for permitted uses that meet all ordinance requirements, whereas the Planning Commission shall conduct

- the site review for conditional uses, variances and other similar procedures as stipulated in the applicable regulations; and,
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
 - (3) Provide off-street parking as set forth in Article IV

SD/CS**SPECIAL DISTRICT - COMMUNITY SERVICES****SECTION 3.30.0 PURPOSE.**

To serve as an overlay district for the location of public use land uses and certain other uses which, by reason of their necessity, convenience, character, or effect, may be appropriate in any district when compatibility with surrounding land uses is assured.

SECTION 3.30.1 INTENT.

To provide for the location of public uses and facilities; to provide for governing body review prior to the location of uses which may be a significant impact on the community as a whole; and to provide a means for preservation of historic resources.

SECTION 3.30.2 PERMITTED USES AND STRUCTURES.

Application for the Special District/Community Services Zoning Classification (Zone Change) shall be approved prior to the location or development of any of the following uses or structures in accordance with the procedures of Article VIII. Recognizing that each of the following is a unique type of development, the Planning Commission and/or City Council may impose conditions to the approval of an application for development as set forth in Section 5.01.2 in order to protect the best interests of the surrounding properties or the community as a whole.

- (1) Aircraft landing field and associated facilities.
- (2) Burial grounds, cemetery or crematorium.
- (3) Campgrounds.
- (4) Caretaker's residence and other accessory uses and structures meeting the "Limitations and Exceptions" set forth in Article IV.
- (5) College or University.
- (6) Government buildings.
- (7) Historic sites of recognized significance to be preserved as open space or for public use.
- (8) Hospitals, medical.
- (9) Libraries, public.
- (10) Parks and playgrounds, public.
- (11) Race tracks, arenas, and other outdoor sporting arenas or facilities not otherwise specifically listed in the general District Regulations.
- (12) Recreational vehicle parks.
- (13) Residential Home.
- (14) Schools; Elementary, Junior High and Senior High; public and parochial.

- (15) Swimming pools (public) and other municipally operated recreational facilities.
- (16) Utility (public) facility, including generator, substation and power plant providing no equipment is stored.
- (17) Other public service and similar uses which are determined by the Planning Commission to be in accordance with the purpose and intent of the Special District/Community Services classification.

SECTION 3.30.3 DIMENSIONAL STANDARDS

(1) Yard Requirements.

The minimum yard requirements and/or bufferyard requirements shall be determined by the Planning Commission during the site review process based on the intent and purpose of the SD/CS District Regulations and utilizing the dimensional standards of the underlying district as a guide.

(2) Minimum Zone Size.

Areas proposed for zone change to Special District/Community Services shall consist of a minimum of one-half acre.

(3) Lot Requirements.

- (a) The minimum lot size shall be 7500 square feet.
- (b) The minimum lot frontage shall be 75 feet.
- (c) The maximum lot coverage shall be in accordance with the underlying District Regulations.

(4) Building Height.

The height of a building shall not exceed 50 feet.

SECTION 3.30.4 DEVELOPMENT STANDARDS AND REVIEW CRITERIA.

The designing and planning of any project involving the erection of a new building or structure, the enlargement in height or ground coverage, or the intensification of use of any existing building or structure shall:

- (1) Be subject to Planning Commission approval of the site plan in accordance with the site review criteria contained in Article V and the specific standards for historic site protection contained in Section 5.05.0; and,
- (2) Provide improvements and comply with the design standards applicable to the type of development proposed as set forth in Article V; and,
- (3) Provide off-street parking as set forth in Article IV.

SD/FHA**SPECIAL DISTRICT - FLOOD HAZARD AREA****SECTION 3.40.1 INTENT.**

To serve as an overlay district intended to provide notification to property owners that they should have their property elevations surveyed for compliance with flood criteria based on the following findings of fact:

- (1) The flood hazard areas of the City of Myrtle Creek are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

SECTION 3.40.2 STATEMENT OF PURPOSE.

To promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 3.40.3 PERMITTED USES AND DIMENSIONAL STANDARDS

All uses and structures within the Special District/Flood Hazard Area shall conform to the regulations of both the Special (overlay) District and underlying general District. In the event of a conflict in regulations, the more restrictive shall govern.

SECTION 3.40.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this district provides methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protection barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas; and
- (6) Controlling the unnecessary removal of streambank vegetation needed to maintain surface water temperature for fish and wildlife habitat.

SECTION 3.40.5 DESIGNATION OF FLOOD HAZARD AREA.

This overlay district shall apply to all areas of special flood hazards within the jurisdiction of the City of Myrtle Creek, as follows:

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Myrtle Creek", dated February 15, 1978, with accompanying Flood Insurance Rate Map (FIRM) and Floodway Map as revised on December 28, 1982, is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at Myrtle Creek City Hall, 207 NW Pleasant Street, Myrtle Creek, Oregon.

SECTION 3.40.6 ABROGATION AND GREATER RESTRICTIONS.

The provisions of this district are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this article and another

article, ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 3.40.7 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this district is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Myrtle Creek, an officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

SECTION 3.41.1 DEVELOPMENT PERMIT & SITE REVIEW REQUIRED.

A development permit (Plan Check Certificate, Building Permit or Placement Permit) shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.40.5. The permit shall be for all structures, including manufactured homes and for all development including fill, removal of vegetation along streambanks and other activities as set forth in Article II (Definitions) under "Development". A site review in accordance with the procedures pertaining to the underlying general District shall be conducted before construction or development begins. The Planned Development concept is encouraged within the flood hazard area and may be required as a condition of approval where the imposition of supplemental standards is authorized by this Ordinance or the Subdivision Ordinance of the City of Myrtle Creek.

SECTION 3.41.2 APPLICATION FOR PERMIT.

Application for a development permit shall be made on forms furnished by the City and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 3.42.2(2);
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development; and,

- (5) Description of the extent to which any streambank vegetation proposed to be removed and steps to be taken to mitigate the impact of any such removal.

SECTION 3.41.3 SUBMISSION OF ADDITIONAL INFORMATION.

An application for development in the Flood Hazard Area shall take into account the best available information affecting the land. If the applicant has access to additional information and can establish its reliability, the Building Official may permit its use providing the information is not in conflict with data provided by the Federal Insurance Administration.

SECTION 3.41.4 DESIGNATION OF THE BUILDING OFFICIAL.

The City Administrator of the City of Myrtle Creek shall appoint a Building Official to administer and implement the provisions of this district by granting or denying development permit applications in accordance with its provisions.

SECTION 3.41.5 DUTIES AND RESPONSIBILITIES OF THE BUILDING OFFICIAL

Duties of the Building Official shall include, but not be limited to:

- (1) Permit Review.
 - (a) Review all development permits to determine that the permit requirements of this Ordinance have been satisfied;
 - (b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required; and,
 - (c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 3.42.3(1) are met.

- (2) Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 3.40.5, "Designation of Flood Hazard Area", the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer Section 3.42.2, "Specific Standards", and Section 3.42.3, "Floodways".

- (3) Information to be Obtained and Maintained.

- (a) Where base flood elevation data is provided through the Flood Insurance Study of required as in Section 3.41.5(2), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

- (b) For all new or substantially improved structures:
 - (i) Verify and record the actual elevation (in relation to mean seal level); and
 - (ii) Maintain the floodproofing certifications required in Section 3.41.2 (3).
 - (c) Maintain for public inspection all records pertaining to the provisions of this district.
- (4) Alteration of Watercourse.
- (a) Notify adjacent communities and the appropriate State agency prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
 - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (5) Interpretation of FIRM Boundaries.

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 3.41.8.

SECTION 3.41.6 VARIANCE PROCEDURE FOR FLOOD HAZARD AREA.

- (1) The Planning Commission shall hear and decide requests for variances from the requirements of this district.
- (2) In passing upon such applications, the Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections and paragraphs of this Ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;

- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (3) Upon consideration of the factors of Section 3.41.6(2) and the purposes of this district, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this district.
- (4) The Myrtle Creek Planning Department shall maintain the records and report any variances to the Federal Insurance Administration upon request.

SECTION 3.41.7 CONDITIONS FOR VARIANCES/FLOOD HAZARD AREA.

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (k) in Section 3.41.6(2) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this Section.
- (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
- (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

- (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 3.41.7(4) or conflict with existing local laws or ordinances.
- (6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principal that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 3.41.7(1) and otherwise complies with Section 3.42.1(1) and 3.42.1(2) of the General Standards.
- (8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 3.41.8 APPEALS.

When it is alleged there is an error in any requirement, decision or determination made in the enforcement or administration of these regulations, those aggrieved by the decision may appeal such decision as provided in Section 9.05.0.

SECTION 3.42.0 PROVISIONS FOR FLOOD HAZARDS.

In areas of flood hazard, the provisions of Sections 3.42.1 through 3.42.3 shall apply.

SECTION 3.42.1 GENERAL STANDARDS.

In all areas of special flood hazards, the following standards are required:

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

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) Utilities.
- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
 - (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Subdivision Proposals.
- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).
- (5) Streambank Vegetation Removal.
- Streambank vegetation within the flood hazard area shall, as much as feasible, be retained to protect the stability of the streambank and maintain the wildlife habitat for fish and wildlife. Such vegetation may be removed only if it is found that it will have no adverse impact on streambank stability and fish and wildlife habitat or will be replaced to mitigate the adverse impact.
- (6) Review of Building Permits.
- Where elevation data is not available either through the Flood Insurance Study or from another authoritative source [Section 3.41.5(2)], applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes

use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

SECTION 3.42.2 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.40.5 "Designation of Flood Hazard Area" or Section 3.41.5(2) "Use of Other Base Flood Data", the following provisions are required:

(1) **Residential Construction.**

- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no less than one foot above the base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) **Nonresidential Construction.**

New construction and substantial improvement of any commercial, industrial or other non residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

- (a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certification shall be provided to the official as set forth in Section 3.41.5(3);

- (d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 3.42.2(1)(b); and,
 - (e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).
- (3) Manufactured Homes.

All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is no less than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 3.42.1(1)(b).

(4) Recreational Vehicles

Recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM either:

- (i) Be on the site for fewer than 180 consecutive days,
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by a quick disconnect type utilities and security devises, and has no permanently attached additions; or
- (iii) Meet the requirements of Section 3.41.1 (Development Permits & Site Review Required) and the elevation and anchoring requirements for manufactured homes found in Section 3.42.2 (3).

SECTION 3.42.3 FLOODWAYS.

Located within areas of special flood hazard established in Section 3.40.5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) Encroachment Prohibited Unless Certified.

Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Flood Hazard Reduction Provisions.

If Section 3.42.3(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 3.42.0 "Provisions for Flood Hazard Reduction".

ARTICLE Vi

NONCONFORMITIES, EXCEPTIONS AND VARIANCES

SECTION 6.01.0 NONCONFORMITIES/DEFINITION

Section 6.01.1 Continuance of a Nonconforming Use or Structure

Section 6.01.2 Termination of a Nonconforming Use or Structure

Section 6.01.3 Expansion or Alteration of a Nonconforming Building or Use

Section 6.01.4 Completion of a Nonconforming Structure

Section 6.01.5 Nonconforming Lots of Record

section 6.02.0 exceptions to dimensional standards

Section 6.02.1 Yards Abutting Streets/Insufficient Right-of-way

Section 6.02.2 Permitted Deviations/Yard Requirements

Section 6.02.3 Minimum Lot Frontage/Planned Developments Only

Section 6.02.4 Exceptions to Height Regulations

SECTION 6.03.0 VARIANCES

SECTION 6.01.0 NONCONFORMITIES/DEFINITION

It is the purpose of the following Sections to provide for the regulation of legally nonconforming uses & structures, lots of record, uses and signs and to specify those circumstances and conditions under which such non-conformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this Ordinance that those non-conformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction. Non-conformities are distinguished as follows:

- (1) A nonconforming use is an activity using land, buildings, signs and/or structures for purposes which were legally established prior to the effective date of this Ordinance, or subsequent amendments to it, and which would not be permitted to be established as a new use in the zone in which it is located by the regulations of this Ordinance.
- (2) A nonconforming structure is a building or structure, other than a sign, legally established prior to the effective date of this Ordinance, or subsequent amendments to it, which does not fully comply with the District Regulations, Supplemental District Regulations, bufferyard requirements, parking and roadway access or similar ordinance provisions. "Non-conforming structure" does not include within its meaning the term "non-complying structure" (which refers to a structure which is not in full compliance with provisions of the Building Code).
- (3) A nonconforming lot of record is any validly recorded lot which, at the time it was recorded, fully complied with all applicable laws and ordinances but which does not fully comply with the requirements of this Ordinance concerning lot dimensions, such as minimum lot size or width.

[TOP](#)

Section 6.01.1 Continuance of a Nonconforming Use or Structure

The lawful use of a building, structure or land existing or active at the effective date of this Ordinance, or amendments thereto, may continue although such use or structure does not conform to the regulations contained herein provided that, if such nonconforming use or activity is terminated as set forth in Section 6.01.2, any future use or activity in or on a structure, building or land shall conform to the regulations of the District in which it is located.

[TOP](#)

Section 6.01.2 Termination of a Nonconforming Use or Structure

A nonconforming use of land, building or structure shall terminate under the following conditions:

- (1) When the use has been use, discontinued for a period of 12 months; or,
- (2) When the structure, which is nonconforming, has been destroyed to an extent exceeding 50% of the assessed value as determined by the County Assessor for the year in which the damage or destruction occurred.

[TOP](#)

Section 6.01.3 Expansion or Alteration of a Nonconforming Building or Use

A nonconforming building cannot be enlarged or reconstructed or the use expanded unless it is made to conform to the regulations of this document and of the Building Code as adopted by the City, except as allowed by the following:

- (1) Maintenance and repair of an existing nonconforming building and its equipment or fixtures is permitted provided that the value of the repair does not exceed 25% of the assessed value of the building as determined by the County Assessor for the year in which the work is done.
- (2) An existing structure conforming as to use, but nonconforming as to height, setback and other dimensional standards, may be altered or extended provided the alteration or extension does not result in an increased violation of this Ordinance.
- (3) Where a fraction of a building or lot contains a nonconforming use, such use shall not be expanded.

[TOP](#)

Section 6.01.4 Completion of a Nonconforming Structure

Nothing contained in this Ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a Building Permit has been issued and work has commenced prior to the adoption of this Ordinance, provided the building, in nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the Building Permit is issued.

[TOP](#)

Section 6.01.5 Nonconforming Lots of Record

A building or structure may be erected on any existing single lot of record even though such lot fails to meet the requirements for area or width or both provided that yard dimensions and requirements other than those applying to the area or width or both shall conform to the regulations for the District in which such lot is located. Variance to yard requirements shall be obtained only through action of the Planning Commission.

[TOP](#)

section 6.02.0 exceptions to dimensional standards

It is the purpose of the following Sections to provide a means to determine when greater or lesser are appropriate and to provide exceptions which allow minor deviations from certain dimensional standards in an attempt to promote good design.

[TOP](#)

Section 6.02.1 Yards Abutting Streets/Insufficient Right-of-way

(1) Setbacks Increased.

To permit or afford better light, air and vision on more heavily traveled streets and on streets of substandard width, to protect arterial streets, and to permit the eventual widening of streets, every yard abutting a portion of street deemed to have insufficient or incomplete right-of-way in accordance with Section 5.03.1 shall be increased over the required yard dimension specified in the zone so that the minimum distance from the centerline to the building shall be one half of the standard right-of-way width plus the applicable yard requirement of the zone.

(2) Commercial/Industrial Districts.

Notwithstanding any greater provisions of Article III and Paragraph (1) above, but to permit better light, air and vision on all streets located within commercial and industrial districts, the distance from the street centerline and building line shall be a minimum of 40 feet. The Central Business District (C-1) is specifically exempted from the provisions of this paragraph.

[TOP](#)

Section 6.02.2 Permitted Deviations/Yard Requirements

(1) Solar Orientation.

Where buildings are aligned to achieve proper solar orientation and units are designed for solar collectors or passive solar heating, the narrowest part of any yard may be 65% of the minimum yard required by the District Regulations (see illustration below). A shadow plan based on a statement of the degree of solar access to be provided each unit and containing the covenants limiting landscaping shall be submitted.

(2) Angled Placement.

Where a single-family dwelling is placed on a parcel such that its entire front is not parallel to the street, as illustrated below, the minimum yard requirements may be met by averaging the yard width from one end of the building (point A in the illustration below) to the other end of the building (point B) provided that the yard at the narrowest point is not less than 80% of the minimum yard required by the District Regulations.

ILLUSTRATION NOT AVAILABLE AT THIS TIME

SOLAR PLACEMENT ON LOT

ILLUSTRATION NOT AVAILABLE AT THIS TIME

ANGLED PLACEMENT ON LOT

(3) Structures may be located within the required side yard and rear yard, and may be located across a lot line, under the following circumstances and subject to the following conditions:

a. The yard within which the structure is to be located shall abut a lot or parcel which is under the same ownership, and within the same zoning district, as the lot or parcel upon which the structure is to be located;

b. The City Administrator shall have determined that a Property Line Adjustment, as provided for in Ordinance No. 469 (Subdivision Ordinance), is impractical or impossible; and,

c. The owner(s) of the property shall execute and record with the Douglas County Clerk a deed restriction and covenant to convey both parcels as a single unit of land, thereby recognizing one lot of record. The deed restriction and covenant shall be prepared and recorded in a form which is acceptable to the City Administrator.

[TOP](#)

Section 6.02.3 Minimum Lot Frontage/Planned Developments Only

Where a dwelling lot is laid out so that it takes access from a common open space area or pedestrian path, rather than a street, the requirement that a minimum amount of the

lot front on a street need not be met. This provision applies to all of the following unit types - single-family, lot line, village house, patio house, atrium house and duplex - provided that an alley provides for individual auto access to a garage, carport or driveway on each lot and that part of a lot shall be within 120 feet of a street right-of-way along the open space. (See illustration below.)

ILLUSTRATION NOT AVAILABLE AT THIS TIME

[TOP](#)

Section 6.02.4 Exceptions to Height Regulations

(1) General Exceptions.

The height limitations contained in the District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances measuring under 6 feet in any horizontal dimension which are not intended for human occupancy and which are usually required to be placed above the roof level.

(2) Residential Exception.

The residential height restrictions otherwise imposed by this Ordinance may be exceeded provided (a) that any increase of height will not produce an increase in the area covered by the shadow of that building on either its lot or the lot of a neighboring property; and (b) that the shadows shall be projected for the period between 9 A.M. and 3 P.M. solar time on December 21st. In no event shall the maximum height be increased by more than 8 feet than otherwise permitted. (See illustration below)

ILLUSTRATION NOT AVAILABLE AT THIS TIME

SECTION 6.03.0 VARIANCES

[TOP](#)

ARTICLE V**SITE REVIEW PROCEDURES AND STANDARDS****SECTION 5.01.0 SITE REVIEW PROCEDURE.**

At the time of the erection of any new building or other structure, or at the time of the enlargement in height or ground coverage or intensification of use of any existing building or other structure, a site review shall be conducted. All applications and accompanying site plans shall be reviewed by the Planning/Engineering Department and, when applicable, by the Planning Commission. To approve such application for development, it shall be determined that the proposed development maintains or improves the character, integrity, and harmonious development of the general area and provides a safe, stable, efficient and attractive on-site environment consistent with the intent of this Ordinance and the Comprehensive Plan. The criteria set forth in Section 5.01.1 and the applicable standards and procedures contained in this Article shall be utilized in making such determination. After the site plan is formally approved, a "Certificate of Plan Check" shall be issued.

SECTION 5.01.1 SITE REVIEW CRITERIA.

The site review shall be conducted in accordance with the criteria set forth herein. Any development proposal which deviates from the established criteria shall be referred to the Planning Commission for determination. The Planning Commission shall have the power to impose any or all of the supplemental conditions set forth in Section 5.01.2 in making their determination.

- (1) Identify areas of potential natural hazards where area protection requirements shall be imposed and which shall include, but are not limited to, the following:
 - (a) Areas of mass movement and areas of greater than 25% slope shall require a written Site Investigation Report (Section 5.02.0) prior to any excavation or change in topography.
 - (b) Areas of potential flooding hazards where the floodplain site criteria of the Flood Hazard Area (SD-FHA) shall apply.
 - (c) Areas of lesser hazard where the imposition of supplemental conditions may be appropriate.
- (2) Establish compliance with the use and dimensional standards of the District Regulations of Article III and the Supplemental Regulations of Article IV, including accessory use provisions and the provisions for off-street parking and loading.
- (3) Establish compliance with the Functional Standards for Public Improvements contained in this Article.
- (4) Establish compliance with the Protection Standards for Natural Features contained in this Article.
- (5) Determine adequate sizing of water and sewer pipelines so as to meet the anticipated growth demands and fire protection requirements.

- (6) Establish driveway and street grade limitations and traffic visibility on adjoining streets.
- (7) Establish compliance with the applicable design standards and improvement requirements for a special district or use.
- (8) Establish the adequacy of the grading and drainage plan for the collection and transmission of storm and ground water in order that the drainage from the proposed development will not adversely affect adjoining properties of public rights-of-way.
- (9) Consider the effects of slope alteration (cut and fill) on erosion and run-off for surrounding properties and impose restrictions when appropriate.
- (10) Determine that the privacy of nearby residents will not be substantially reduced nor will significant views from nearby properties be obstructed.
- (11) Establish where the retention of existing vegetation and natural topographic features will be beneficial as a soil stabilizer or is of scenic significance and impose restrictions where appropriate.
- (12) Consider the visual impact of the proposed development and the compatibility of the architectural features of the proposed structure(s) and impose restrictions, where appropriate, in order for the development to be harmonious with the character of the surrounding neighborhood or with the community as a whole.
- (13) Identify any areas of historic significance where the imposition of protection requirements may be appropriate.

SECTION 5.01.2 SUPPLEMENTAL CONDITIONS.

When the imposition of supplemental standards or conditions is authorized by the various provisions of this Ordinance, any of the following conditions may be attached to the approval of an application for development in order to avoid detrimental impacts or to protect the best interest of the surrounding properties or the community as a whole; however, any conditions attached shall not be used (a) to intentionally exclude needed housing types, (b) to unnecessarily decrease allowed densities, or (c) to have the effect of discouraging needed housing through unreasonable cost or delay. It is recognized that not all of the following may be applicable to a particular proposal.

- (1) Limit the time a certain activity may take place, and/or require restraints to minimize such environmental effects as noise, air pollution emissions, odor, vibration, dust, glare, heat, fire hazards, wastes, traffic generation and visual impact.
- (2) Limit, or otherwise designate, the number, size, location, height and lighting of signs.
- (3) Limit the location and intensity of outdoor lighting and require its shielding.
- (4) Limit the height of a building or other structure or the location of mechanical roof facilities to protect view, privacy or access to sunlight of neighboring properties.
- (5) Require sidewalks to be installed.
- (6) Require diking, berming, screening, landscaping, or other facility to protect adjacent or nearby property and designate standards for its installation and maintenance.

- (7) Establish a special yard or other open space or lot area or dimensions to serve as a bufferyard.
- (8) Designate the size, height and materials for the fence.
- (9) Impose measures to ensure protection, preservation or enhancement of existing trees over 12 inches caliper, riparian vegetation, water resource, wildlife habitat or other significant natural resource, including requiring a re-vegetation program where appropriate.
- (10) Designate the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area.
- (11) Designate the size, number, location and nature of vehicle access points including requiring the combining of accesses into commercial and industrial development.
- (12) Prohibit direct residential access onto arterials and collectors.
- (13) Increase the amount of street dedication or roadway widths or specify improvements within the street right-of-way in accordance with the standards contained in Section 5.03.1.
- (14) Require the planned development approach for just cause based on significant topographic features or open space needs.
- (15) Establish the suitability of a site plan, grading and drainage plan, or other plan by having it prepared and certified by an appropriate licensed professional.
- (16) Require a Site Investigation Report as described in Section 5.02.0 for just cause based on site hazards in situations not otherwise regulated.
- (17) Require performance bonds, deed restrictions, and deed dedications to be posted or filed prior to issuance of a Building Permit.
- (18) Specify other conditions where necessary to permit the development in conformity with the intent and purpose of this document and to avoid detrimental environmental impacts.

SECTION 5.02.0 SITE INVESTIGATION REPORT.

A Site Investigation Report shall be submitted as part of the site review process when the proposed development involves identified mass movement hazard areas or areas of greater than 25% slope. Also, the Planning Commission may require a Site Investigation Report to be submitted for development in other areas of potential natural hazards based on the recommendation of the City Engineer for just cause. The Site Investigation Report provides information on the site of development adjacent land that is likely to be affected by the proposed development. Unless the City Engineer determines that certain specifications are not required, the Report shall include the information described in Subsection (1) through (6) herein, together with appropriate identification of information sources; the date of information; the methods used in the investigation and approximate man hours spent on the site.

- (1) Qualifications To Conduct A Site Investigation Report.
The Site Investigation Report shall be prepared by an engineering geologist or an engineer who certifies he is qualified to evaluate soils for stability or a person or team of

persons qualified by experience and training to assemble and analyze physical conditions in flood or slope hazard areas. The person or team shall be employed by the applicant but shall be subject to approval as to qualifications by the City Administrator.

(2) Background Data In Report.

The Site Investigation Report shall contain the following information:

- (a) A general analysis of the local and regional topography and geology including the faults, folds, geologic and engineering geologic units and any soil, rock and structural details important to engineering or geologic interpretations.
- (b) A history of problems on and adjacent to the site, which may be derived from discussions with local residents and officials and the study of old photographs, reports and newspaper files.
- (c) The extent of the surface soil formation and its relationship to the vegetation of the site, the activity of the land form and the location of the site.
- (d) Ground photographs of the site with information showing the scale and date of the photographs and their relationship to the topographic map and profiles. The photographs will include a view of the general area, the site of the proposed development and unusual natural features which are important to the interpretation of the hazard potential of the site, including all sites of erosion or accretion.

(3) Topography Map.

A topographic base map (1 to 100 scale) with a contour interval of two feet (or as is otherwise recommended by the City Engineer) may be required identifying the following features and accompanied by references to the sources and date of information used.

- (a) The position of the lot line.
- (b) The boundaries of the property.
- (c) Open areas and the boundaries and species identification of major plant communities.
- (d) Any springs, streams, marshy areas or standing bodies of water.
- (e) Areas subject to flooding, including those shown on the flood hazard maps prepared under the HUD National Flood Insurance Program.
- (f) Cut terraces, erosion scarps and areas exhibiting significant erosion due to improper drainage and runoff concentration.
- (g) Geological information, including lithologic and structural details important to engineering and geologic interpretation.

(4) Subsurface Analysis.

If, upon initial investigation, it appears there are critical areas where the establishment of geologic conditions at depth is required, a subsurface analysis obtained by drill holes, well logs and other geophysical techniques will be conducted by the person responsible for the Site Investigation Report and will include the following data as appropriate.

- (a) The lithology and compaction of all subsurface horizons to bedrock.
 - (b) The depth, width, slope and bearing of all horizons containing significant amounts of silt and clay and any other subsurface layers.
 - (c) Underlying areas of buried vegetation.
- (5) Development Proposal.
The Site Investigation Report may include the following information on the proposed development as applicable. The information will be shown on the topography map as described in (3) or appropriately referenced.
- (a) Plans and profiles showing the position and height of each structure, paved area and area where cut and fill is required for the construction.
 - (b) The percent and location of the surface of the site which will be covered by impermeable or semi-permeable surfaces.
 - (c) A description of proposed measures which will protect critical biological habitats from any adverse impacts of the development.
 - (d) A revegetation program designed to return the land to a stable condition as soon as possible following construction and the period of time during which revegetated areas will receive revegetation maintenance.
 - (e) The time of commencement of revegetation planting. If this does not fall within the optimal revegetation period of November through April, special care of the plantings will be provided for until they are well established.
- (6) Conclusions.
The Site Investigation Report is to include specific conclusions. The report and its conclusions are a technical determination made by a qualified person, however, because of the potential complexity of many of the issues, the conclusions need not be accepted by the Planning Commission unless satisfied that all ordinance requirements and development standards are met. The conclusions will be based on data in the report and the sources of information and facts will be specifically referenced. The following conclusions should be stated:
- (a) Whether the intended use of the land is or is not compatible with the conditions.
 - (b) Any existing or potential hazards noted during the investigation.
 - (c) The manner for achieving compliance with the ordinance and other requirements.
 - (d) Mitigating recommendations for specific areas of concern and the degree to which they mitigate the concerns.

SECTION 5.03.0 FUNCTIONAL STANDARDS FOR PUBLIC IMPROVEMENTS.:

The general standards set forth in Section 5.03.1 through 5.03.6 apply to all development which may involve or affect public facilities.

- (1) Water and sewer for all districts shall be provided by public or approved private systems. Any private system shall be authorized by the Planning Commission.
- (2) Construction, reconstruction, repair of streets, sidewalks, sewers, water mains and other public improvements shall be in accordance with specifications adopted by the City and shall be coordinated with the City Engineer.

SECTION 5.03.1 STREET STANDARDS.

The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, and to the proposed use of land to be served by the streets. The street system shall assure adequate traffic circulation that is convenient and safe. Intersection angles, grades, tangents and curves shall be appropriate for the traffic to be carried, considering the terrain. Street determinations shall be made in accordance with the criteria contained in the following paragraphs and shall be coordinated with consideration of solar access to the building sites and with the need for utility location. The Planning Commission shall designate the system of collector and arterial streets for the City, stating the future right-of-way width requirements for such streets and adopting said right-of-way width requirements by reference as part of this Ordinance. Additional setbacks may be required as set forth in Section 6.02.1.

- (1) Minimum Right-of-Way Width.
All existing continuous minor streets shall be deemed to have insufficient right-of-way if the right-of-way is presently less than 60 feet in width. All other streets in the City shall be deemed to have insufficient or incomplete right-of-way if they are presently less than the standards for the type of street set forth in the Subdivision Ordinance of the City.
- (2) Protection From Arterial.
Where a development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate through and local traffic or, if separation is not feasible, shall minimize the traffic conflicts. The design requirements may include a street, parallel access street along the margin of the arterial, screen planting at the rear or side property lien to be contained in a non-access reservation along the arterial, or other treatment suitable to meet the objectives of this Section.
- (3) Partial Width Streets.
A partial width street, while generally not acceptable, may be approved by the Planning Commission where reasonably essential to the development and when in conformity with other requirements of this Article and when it will be practical to require the dedication of the other portion when the adjoining property is developed. Reserve strips and street plugs may be required to preserve the objective of a partial width street.
- (4) Future Extensions of Streets.

Where necessary to give access to or permit a satisfactory future division of adjoining land, a public street may be extended to the boundary of the development and the resulting dead-end street may be approved without a turnaround. A reserve strip or street plug may be required to preserve the objective of the street extension.

(5) Street Improvements.

- (a) Streets, including alleys, within a development and streets adjacent but only partially within a development, will be improved. Catch basins will be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments will be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their centerlines.
- (b) Street name signs will be installed at street intersections containing the name or number approved by the City Council.
- (c) Street lights may be required and shall be served from an underground source of supply unless exception is made because other electrical lines are not underground.

(6) Bicycle Routes.

If appropriate to the extension of a system of bicycle routes, existing or planned, the installation of separate street, bicycle lanes within streets, or separate bicycle paths, may be required.

SECTION 5.03.2 SIDEWALKS.

The same sidewalk improvements shall be installed to serve each building site as is required for a subdivision unless alternative pedestrian routes are available or there is no evidence of special pedestrian activity along the streets involved.

SECTION 5.03.3 SANITARY SEWERS.

Sanitary sewers will be installed to serve each building site to connect the development to existing mains. The City Engineer will take into account the capacity and grade to allow for future extension beyond the development. If required sewer facilities will, without further sewer connection, directly serve property outside the development, arrangements may be made to equitably distribute the cost.

SECTION 5.03.4 DRAINAGE.

An adequate system of storm drains will be installed to provide proper drainage for each new development and to connect the development to the existing downstream drainage system. If an upstream area discharges through the property proposed for development, the drainage system will provide capacity to receive the floodwater discharge from the upstream area. If the proposed development, or the ultimate development 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 will be made to increase the downstream capacity.

SECTION 5.03.5 WATER SYSTEM.

Waterlines shall be installed to serve each building site to connect the development to existing mains. The City Engineer will take into account the need for extension beyond the development and to adequately grid the water system. If a required water main will, without further construction, directly serve property outside the development, arrangements may be made to equitably distribute the cost. Water supply mains shall be designed to serve public fire hydrants and, if a building site is more than 500 feet from a fire hydrant, hydrants shall be provided as designated by the City Engineer.

SECTION 5.03.6 OTHER UTILITIES.

The developer will make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including, but not limited to, communication, street lighting and cable television, will be placed underground unless the size of the development and the points of connection to existing overhead utility facilities make underground installation impractical.

SECTION 5.04.0 PROTECTION STANDARDS FOR NATURAL FEATURES.:

All development shall be preceded by the identification of any environmental or natural feature described in Section 5.04.1 through 5.04.6 below and shall meet the environmental protection standards applicable to each natural resource identified therein. Reference in this Section to "open space" is intended to mean the term as it is defined in Article II.

SECTION 5.04.1 STEEP SLOPES.

In areas of steep , the following standards shall apply:

- (1) Twelve to less than 16% slope: No more than 40% of such areas shall be developed and/or regraded or stripped of vegetation.
- (2) Sixteen to 25% slope: No more than 30% of such areas shall be developed and/or regraded or stripped of vegetation, with the exception that no more than 20% of such areas may be disturbed in the case of poor soil suitability (i.e., Nonpareil No.5).
- (3) More than 25% slope: Not more than 15% of such areas shall be developed and/or regraded or stripped of vegetation, with the exception that no more than 5% of such areas may be disturbed in the case of very poor soil suitability (i.e., Nonpareil No. 6).
- (4) All erodible slopes shall be protected in accordance with the control standards contained in Section 5.04.6.

SECTION 5.04.2 BLUFFS AND EROSION HAZARD AREAS.

- (1) All such areas shall remain as permanent open space. No uses or improvements other than those permitted herein shall be permitted in any erosion hazard area or any area consisting of bluff as defined by this Ordinance.
- (2) In the erosion hazard area associated with bluffs, any non-structural recreational use is permitted, including pedestrian access ways.
- (3) Erosion hazard areas may be used to provide vehicular access to non-hazard areas. In this event, an environmental assessment (or Site Investigation Report) shall provide the basis for location of such access. Minimum damage to the area shall be the guide in location of the access.
- (4) All erodible slopes shall be protected in accordance with the control standards contained in Section 5.04.6.

SECTION 5.04.3 RAVINES AND RAVINE BUFFERS.

- (1) At least 98% of all ravines shall remain in permanent open space. At least 80% of all ravine buffers shall remain in permanent open space. No uses or improvements other than those permitted herein shall be permitted in any area consisting of ravines or ravine buffers as defined by this Ordinance.

- (2) Ravines shall not be the site of any land use or development, with the exception that access to other areas may be provided in ravine areas. In this event, an environmental assessment (or Site Investigation Report) shall provide the basis for location of such access. Minimum damage to the area shall be the guide in location of the access. The protected areas of ravine buffers shall be used only for passive recreation.
- (3) All erodible slopes shall be protected in accordance with the control standards contained in Section 5.04.6.

SECTION 5.04.4 FLOODPLAINS/FLOODWAYS.

- (1) The determination of floodplain boundaries and the standards for flood hazard area protection are contained in the regulations for the Special District-Flood Hazard Area. Whenever any land located in a stream channel or body of water is disturbed, a soil erosion or sedimentation control plan shall be submitted in accordance with Section 5.04.6.
- (2) Located within areas of special flood hazard are areas designated as floodways. In accordance with the Natural Resources Element of the Comprehensive Plan, the floodway shall be designated as open space, forming a greenway, and is to be incorporated in the Recreation/Open Space System Proposal. Right-of-way or easements, whenever feasible, shall be provided at the time of development on all properties located in the floodway as shown on the open space (greenway) proposal.
- (3) Greenways are linear green belts linking residential areas with other open space areas. These greenways may contain bicycle paths, footpaths and bridle paths. Connecting greenways between residences and recreational areas is encouraged. Maintenance is limited to minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

SECTION 5.04.5 DRAINAGEWAYS.

No more than 50% of such areas shall be developed. The remaining 50% shall remain as permanent open space. Regrading, stripping of vegetation, or filling is permitted in these areas provided that:

- (1) The time of concentration of stormwater flows remains unchanged or is lengthened.
- (2) Stormwater and groundwater storage capacity are unchanged or increased.
- (3) Vegetation is re-planted.
- (4) The resultant new driveway has less velocity than pre-existed or reduces streambank erosion through the provision of erosion control measures.

SECTION 5.04.6 SOIL EROSIONS AND SEDIMENTATION CONTROL.

- (1) SESC Plan.
In order to prevent both soil erosion and sedimentation, a soil erosion and sedimentation control plan shall be required as part of an application for development whenever any land located in a stream, stream channel or body of water is disturbed and whenever a

development will involve any clearing, grading, transporting, or other form of disturbing land by the removal of earth, including the mining of minerals, sand, and gravel provided that any one of the following descriptions applies to said movement of land:

- (a) Excavation, fill, or any combination thereof will exceed 500 cubic yards.
- (b) Fill will exceed three feet in vertical depth at its deepest point as measured from the natural ground surface.
- (c) Excavation will exceed four feet in vertical depth at its deepest point as measured from the natural ground surface.
- (d) Excavation, fill, or any combination thereof will exceed an area of 5000 square feet.
- (e) Plant and/or tree cover is to be removed from an area exceeding 5000 square feet on any parcel of land.

(Note: Specifically exempted from the requirement of a soil erosion and sedimentation control plan are agricultural uses.)

(2) Definitions for the purpose of this Section are:

- (a) *Soil erosion* shall mean a removal and/or loss of soil by the action of water, ice, gravity, or wind. Erosion includes both the detachment and transport of soil particles.
- (b) *Sedimentation* shall mean the settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.
- (c) *Erodible slope* shall mean all with inclines in excess of four percent.
- (d) *Large flat surface area (unpaved)* shall mean an area which is flat or whose slope is less than 4% and which consists of more than 1000 square feet of exposed soil.

(3) Erosion Control Measures.

All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Specifically, the following protection shall be provided for all disturbed areas: Minimize velocities of water runoff, maximize protection of disturbed areas from storm water runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation control follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required.

- (a) *Erodible slopes:*
Prevent detachment and transportation of soil particles from slope.
- (b) *Streams, streambeds, streambanks, bodies of water, shorelines:*

Prevent detachment and transportation of soil articles.

- (c) *Drainageways:*
Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetland); promote deposit or sediment loads (traversing these areas) before these reach bodies of water.
- (d) *Land adjacent to streams, ponds, lakes, and wetlands:*
Prevent detachment and transportation of soil particles.
- (e) *Enclosed drainage structure:*
Prevent sedimentation in structure, erosion at outfall of system and deposit of sediment loads within system or beyond it.
- (f) *Large flat surface areas (unpaved):*
Prevent detachment of soil particles and their off-site transportation.
- (g) *Impervious surfaces:*
Prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of run-off of the site or its concentration caused by impervious surfaces).
- (h) *Borrow and stockpile areas:*
Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition.
- (i) *Adjacent properties:*
Prevent their erosion and/or being deposited with sediment.

SECTION 5.05.0 CULTURAL, HISTORIC & ARCHAEOLOGICAL RESOURCES;

- (1) **Purpose.**
Buildings and sites in the City of Myrtle Creek having special historic associations or significance or of special merit or significance should be preserved as a part of the City's heritage and for the education, enjoyment, and pride of the citizens, as well as the beautification of the City and enhancement of property values. To that end, regulatory controls and administrative procedures are necessary.

- (2) **Planning Clearance Required.**
No building, site or object designated as a historic landmark shall be altered, restored, painted or otherwise have the exterior appearance altered; no structure shall be moved or demolished; and no building or other structure, including walls and fences, shall be erected and no grading shall be undertaken on any previously undisturbed historic site listed in the *Historic Resources Register* unless planning clearance has been approved in accordance with this Article. Issuance of a "Plan Check Certificate" shall be evidence that requirements of this Article have been met.

Alterations made to a historic landmark which change the appearance or otherwise effect the historic integrity of the site or structure, without obtaining planning clearance, may result in deletion of that structure from the *Historic Resources Register* and subsequent withdrawal of special protection benefits provided herein.

- (3) **Restoration Not Mandatory.**
Nothing herein contained shall be so construed as to require any affirmative action on the part of any person or property owner with respect to improving existing buildings or uses, nor require an owner to maintain, restore, or preserve a historic site or structure listed in the *Historic Resources Register*. In addition, the review process shall in no case be exercised so as to impose upon any property owner any peculiar or undue hardship by preventing the removal or demolition of any structure which cannot be economically maintained or restored, giving due consideration to all potential uses to which the same might reasonably be put upon restoration by a private property owner.

SECTION 5.05.1 HISTORIC RESOURCE REVIEW COMMITTEE.

The Myrtle Creek Planning Commission is hereby designated as the Historic Resource Review Committee and, as such, shall review those requests for building and demolition permits having an impact on resources of cultural or historic significance afforded protection through the provisions of this Article. All decisions of the Review Committee may be appealed pursuant to Section 9.05.0 of this Ordinance. The duties of the Review Committee shall include the following:

- (a) To adopt such rules and regulations as it finds necessary or appropriate to carry out the intent of this Article;
- (b) To receive requests by any citizen, or on its own motion, make recommendations concerning the designation of particular buildings, sites and objects as historic landmarks;
- (c) To compile and maintain a current list of all historical landmarks with a brief description of each building or site and the special reasons for its inclusion on such list;

- (d) To recommend removal from any list of designated historic landmarks such property as it finds no longer worthy of such designation and, if the landmark is demolished or destroyed, to retain a historic record of the resource;
- (e) To inspect and investigate any building or site in the City which it has reason to believe is an architectural or historical landmark;
- (f) To review all information which it has and hold hearings as prescribed in this Article and forward the results to the City Council;
- (g) To coordinate historical preservation programs of the City, County, State and Federal governments as they relate to property within the City; and,
- (h) To make available to the public information concerning its activities and information concerning the various historical landmarks so designated pursuant to this Article.

SECTION 5.05.2 HISTORIC RESOURCES REGISTER.

(1) Creation of City Historic Register.

The "*City of Myrtle Creek Register of Cultural, Historic & Archaeological Resources*" (hereinafter called the *City Register*) is hereby created for the purpose of being the official depository of information about the City's historic resources, to be used as a reference for educational and recreational pursuits and to recognize resources for tax assistance and other incentives. The *City Register* shall contain all available information concerning the resources in the City's jurisdiction which are listed in the "*National Register of Historic Places*" in addition to information concerning resources potentially eligible for the *National Register*. The *City Register* may also contain general information concerning application requirements for State and Federal historic designation and related tax advantages.

(2) Changes to the City Historic Register.

Initially, all buildings in the City over 50 years of age and other potential landmarks shall be inventoried and evaluated for significance by the Review Committee. Those possessing qualities worthy of preservation shall be placed in the *City Register*. All additions, deletions, or other changes to the content of the *City Register* shall be made by Resolution of the City Council upon the recommendation of the Review Committee, who shall establish findings based on the criteria set forth in Paragraph (5) herein.

(3) Applications For Additions/Deletions.

Upon petition to the Review Committee, or upon its own motion, to designate a particular area, site or object as a historic landmark or to remove a resource from the *City Register*, a hearing shall be scheduled for the next regular Planning Commission meeting. Notice shall be given pursuant to Section 9.04.0 of this Ordinance in a manner similar to a major zoning re-classification, including notice to the petitioner.

If, following the hearing, the Review Committee establishes that the subject area, site or object, is of cultural or historic significance, a recommendation shall be forwarded to the City Council to place the subject property in the *City Register*. If the Review Committee determines that there is no historic significance or that the historic significance has been altered and is not recoverable, the Review Committee shall recommend the subject property to be deleted from the *Historic Register*.

Upon the initiation of action to designate a site or structure as a historic landmark (for which a Building Permit application is pending) the Review Committee may direct that planning clearance be delayed up to 60 days from the date of application to allow

sufficient time to consider the designation request, conduct a hearing and determine whether the proposed construction effects the appearance or historical significance.

(4) Classification of Sites.

Landmarks listed in the *City Register* shall be classified as having either "Primary" or "Secondary" significance. Resources classified as "Primary" are either currently listed on the *National Register of Historic Places* or considered potentially eligible for the *National Register*. Resources classified as "Secondary" possess qualities of special historic interest and may be considered significant when other factors are considered (such as the historic character of the surrounding area). When reviewing applications for alteration or demolition of a landmark or other proposal impacting a resource, the Review Committee shall consider the "Primary" or "Secondary" classification and shall weigh their decision based on the relative significance of the resource.

(5) Criteria for Landmark Designation.

The following criteria shall be utilized in evaluating all additions, deletions or other changes to the content of the Myrtle Creek Historic Resources Register. As part of the evaluation process, the Review Committee shall assign points in the various categories, as appropriate, for a maximum total of 100 points. Points shall be considered by the Review Committee as a relative measure to establish significance. Additional review for placement on the *City Register* shall not be required for structures listed on the *National Register of Historic Places*.

architecture

- (a) Style: Significance as an example of a particular architectural style, building type or convention. (0-10 points)
- (b) Design/Artistic Quality: Significance because of quality of composition, detailing and craftsmanship. ((1-4 points)
- (c) Materials/Construction: Significance as an example of a particular material or method of construction. (0-4 points)
- (d) Integrity: Significance because it retains its original design features, materials and character. (0-10 points)
- (e) Rarity: Significance as the only remaining, or one of the few remaining, properties of a particular style, building type, design, material or method of construction. (0-10 points)

Environment

- (a) Landmark: Significance as a visual landmark. (0-10 points)
- (b) Setting: Significance because the current land use surrounding the property contributes to the integrity of the pertinent historic period. (1-4 points)
- (c) Continuity: Significance because the property contributes to the continuity or character of the street, neighborhood or community. (0-7 points)

History

- (a) Person: Associated with the life and activities of a person, group, organization or institution that has made a significant contribution to the community, state or nation. (0-10 points)

- (b) Event: Associated with an event that has made a significant contribution to the community, state or nation. (0-10 points)
- (c) Patterns: Associated with, and illustrative of, broad patterns of cultural, social, political, economic or industrial history in the community, state or nation. (0-10 points)
- (d) Information: Resource has yielded, or may be likely to yield, information important in prehistory or history. (0-10 points)

SECTION 5.05.3 REVIEW PROCEDURE.

Prior to approval of a Building Permit, Demolition Permit or other land use action, the following measures shall be utilized:

- (1) Pre-application.
Administratively determine the following:
 - (a) Whether the application for a Building, land use or Demolition permit pertains to property identified as a historic or archaeological site or an existing historic structure; and,
 - (b) Whether the construction plans or a land use action could alter the exterior appearance or other significant elements of the landmark.
- (2) No Exterior Changes.
Upon determination that an application pertains to an existing landmark listed in the *City Register* but that no exterior alterations are proposed, the Planning Department shall issue planning clearance by submitting to the Building Department a statement that the requirements of this Article have been satisfied.
- (3) Alteration Proposed/Hearing Scheduled.
Upon determination that an application proposes to alter the appearance, condition or status of an existing landmark, a hearing shall be scheduled for the next regular Planning Commission meeting. Notice shall be given pursuant to Section 9.04.0 of this Ordinance in a manner similar to a major zoning re-classification, including notice to the applicant (who shall be encouraged to be present). At the hearing, the applicant shall be entitled to be heard and to present evidence. The Review Committee may also hear testimony from other interested parties, including a representative of the Building Department.
- (4) Decision Criteria.
The Review Committee shall conduct the hearing, review the application, construct findings and render a decision in accordance with Section 5.05.5 (for alterations and exterior remodeling), Section 5.05.6 (for new construction on historical sites where no structure exists), Section 5.05.7 (for demolitions) and Section 5.05.8 (for archaeological sites). All plans, elevations, colors, materials, textures, landscaping and other such information deemed necessary to determine the appropriateness of the exterior features of the landmark in question shall be made available to the Review Committee by the applicant.
- (5) Notice of Decision/Appeal.

All decisions of the Review Committee shall be final unless written appeal (pursuant to Section 9.05.0 of this Ordinance) is received within 10 days after the property owner has been notified, in writing, of the decision of the Review Committee. Other parties participating at the hearing may request a copy of the written notification.

- (6) Ordinary Maintenance & Repair.
Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design or outward appearance nor prevent the construction, reconstruction, alteration or demolition because of an unsafe condition or for Building Code compliance.

SECTION 5.05.4 REHABILITATION OF A HISTORIC LANDMARK.

Rehabilitation assumes that at least some repair or alteration of the historic structure will need to take place in order to provide for an efficient contemporary use, however, these repairs and alterations must not damage or destroy the materials and features, including their finishes, that are important in defining the building's historic character. Affirmative findings shall be documented addressing the following standards based upon their relative importance:

- (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, site and its environment, or to use a property for its originally intended purpose.
- (2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
- (10) Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- (11) Signs, exterior lighting, and other appurtenances, such as walls, fences, awnings, and landscaping should be visually compatible with the traditional character of the historic building. Alarms, emergency lighting and other necessary exterior appurtenances should be placed in an unobtrusive manner.

SECTION 5.05.5 ALTERATIONS OR EXTERIOR REMODELING OF A LANDMARK.

(1) Hearing Scheduled.

Upon receipt of a request for exterior alteration of a building listed on the *City Historic Register*, a hearing shall be scheduled before the Review Committee. The alteration or remodeling shall be approved and planning clearance issued if the treatment proposed is found to be harmonious and compatible with the character of the resource and/or is found to enhance the historical value of the resource.

The request shall be disapproved if the proposal will prove to be unsightly, grotesque or otherwise reduce the resource value or historic significance. No recommendations or requirements shall be made except for the purpose of preventing developments obviously out of character with the historic aspects of the landmark and its immediate surroundings.

(2) Decision Criteria.

Preservation of a building and its historic character is based on the assumption that (a) the historic materials and features and their unique craftsmanship are of primary importance and that (b) they will be retained, protected and repaired in the process of rehabilitation to the greatest extent possible. It is often necessary, however, to make modifications to a historic building so that it can comply with current health, safety and code requirements and/or be retrofitted for energy conservation. Such work needs to be carefully planned and undertaken so that it does not obscure, radically change, damage or destroy character defining spaces, features and finishes.

To achieve these preservation goals, a two part evaluation needs to be applied. First, a particular property's materials and features which are important in defining its historic character should be identified and, second, the potential impact of work necessary to make possible an efficient contemporary use should be assessed. The "Standards for " contained in Section 5.05.4 shall be followed by the Review Committee in their decision making. The "Guidelines" published by the Secretary of the Interior may be utilized by the Review Committee in interpreting the "Standards". The "Guidelines" may also be used as a model for owners and developers. A copy of the "Guidelines" shall be included in the *City Register*.

(3) Results of Noncompliance.

If the Review Committee finds the proposed alterations to be in noncompliance, it may:

- (a) Approve the application subject to compliance with conditions which will bring the application into conformance with the intent of Section 5.05.4; and/or
- (b) Place up to a 60 day delay from the date of the hearing action on planning clearance for issuance of a Building Permit for the proposed alteration to provide additional time for gathering information, to further evaluate the proposal, to identify alternatives for the property owner(s), or to provide the applicant with information concerning local, State and Federal preservation programs so that the applicant may gain a knowledge of alternatives available to him.

SECTION 5.05.6 NEW CONSTRUCTION ON HISTORIC SITES.

(1) **Limitations.**

New structures on or adjacent to significant historic sites or near locations shall comply with the following:

- (a) A 50 foot setback from the sign or monument designating the historic site shall be maintained unless the agency which placed the sign or monument indicates that the proposed structured will not obscure the sign or monument;
- (b) Specifically identified historic sites shall be protected by a 50 foot setback from structural development unless it can be shown that the proposed structure will not obscure the landmark; and,
- (c) No specific provisions shall apply when a landmark has no defined area.

(2) **Hearing Scheduled.**

Proposed plans for new construction on historic sites which do not conform with Paragraph (1) above shall be referred to the Review Committee. A hearing shall be scheduled and findings shall be prepared addressing the uniqueness of the resource (whether its of "Primary" or "Secondary" significance) and the economic, social, environmental and other consequences of approving or denying the application and determine whether the request shall be approved or denied. Conditions may be attached to the approval if they are deemed necessary based on the "Standards for Rehabilitation" contained in Section 5.05.4. Reasonable effort shall be made by the Review Committee to maintain a significant historic site by a public or private acquisition, protection or preservation project.

SECTION 5.05.7 DEMOLITION OF HISTORIC STRUCTURES.

(1) **Hearing Scheduled.**

Upon receipt of a request for demolition of a structure listed in the *City Register* or upon receipt of a development proposal on or adjacent to a historic site which encroaches upon or otherwise threatens the preservation of that site, a hearing shall be scheduled before the Review Committee. If the structure for which the is requested has been damaged in excess of 70% of its assessed value due to fire, flood, wind, or other action of God, a Demolition Permit may be approved by the City Administrator without processing the request through the Review Committee. Failure to initiate review within 30 working days shall be considered as approval of the application.

(2) **Decision Criteria.**

At the hearing, the Committee shall review the application and construct findings addressing the structure's state of repair, the reasonableness of repair, restoration costs, the uniqueness of the resource (whether of "Primary" or "Secondary" significance) and the economic, social, environmental and other consequences of approving or denying the application and determine whether the request shall be approved or denied. The Committee may delay clearance on issuance of the Demolition Permit for up to 60 days from the date of the hearing upon consideration and completion of the following factors:

- (a) Reasonable effort shall be made by the Review Committee to provide the owner of the structure with possible alternatives for demolition, including information concerning local, State and Federal preservation programs; and,
 - (b) Reasonable effort shall be made by the Review Committee to maintain a significant historic structure or site by an acquisition, protection, stabilization, preservation, rehabilitation, restoration, or reconstruction project. A demonstrated lack of private and/or public funding for the above is sufficient cause to allow demolition of the site or structure.
- (3) Extension of Time.
Suspension of the permit may be extended if the Review Committee determines that there is a program or project underway which could result in public or private acquisition of the historic landmark and that there is reasonable grounds to believe that such program or project may be successful. Such extension period shall not delay issuance of planning clearance in excess of 180 days. Therefore, at the end of the 180 day period, if public and/or private funding has not been arranged to compensate the property owner for maintaining or preserving the historic landmark, planning clearance (for historic preservation purposes) shall no longer be withheld.
- (4) Historic Record.
If the demolition of a landmark is approved, the Review Committee shall request the Douglas County Museum and local historic preservation societies, in cooperation, to pictorially, graphically and in writing record the historic resource. To the extent that funds are available, artifacts shall be obtained from the resource or site which are worthy of preservation. These artifacts may, as an example, include carvings, cast iron work, or other materials of historic significance.
- (5) Reconstruction.
There is a recognized value to the community in preserving historic resources, however, when a historical structure is destroyed or damaged to the extent that demolition appears to be the only reasonable alternative, a replica of that structure may be built on the site. The historic designation may be retained when construction duplicates the style, design, size, scale, texture and materials utilized for the original structure.

SECTION 5.05.8 ARCHAEOLOGICAL SITES.

- (1) Reporting of Find.
Although no archaeological sites have been identified in the City of Myrtle Creek, it may happen that archaeological objects/deposits are discovered during development activities. For situations where archaeological objects/deposits are discovered during a development action, it is recommended that the discovery be reported to the City as soon as possible.
- (a) No delaying or halting of the development will occur without the developer's or landowner's consent unless and Indian burial site is involved. At a minimum, it is

desired that the developer or landowner will allow the recovery of archaeological objects and data for research and cultural heritage purposes; or,

- (b) If an Indian burial site is involved, notification shall be provided to the relevant Indian tribal governing body, the SHPO and other relevant interested persons.

(2) Alternative Courses of Action.

Upon the Planning Commission's receipt of a report that an archaeological site has been identified, the Commission shall recommend compliance with the highest of the following priorities, as practicable, or, if identified in advance of development, shall make it a condition of approval for a proposed land use action:

- (a) Avoid the site, unless demonstrated to be impracticable; or,
- (b) Bury or cover the site without disturbing it when necessary to protect the site from land disturbing activities, unless demonstrated to be impracticable; or,
- (c) If the site is to be disturbed, redesign the project to minimize impacts and excavate/recover data from the disturbed area, unless demonstrated to be impracticable; or,
- (d) Proceed with development without any additional consideration for the archaeological resource.

(3) Disposition of Artifacts.

Ownership and disposition of any archaeological objects discovered on private lands must comply with applicable State laws. The relevant Indian tribal government may request to receive recovered nonsacred artifacts following research studies, subject to approval by the developer or land owner.

SECTION 5.05.9 HISTORICAL MARKERS

(1) Signs, Monuments and Plaques.

Significant historic sites and sites possessing qualities of special historic interest should be identified by sign or monument. The Review Committee should promote programs for identification plaques for those significant historic sites and sites of special historic interest not now signed or monumented. Signs and markers not placed or maintained by the State or other responsible agency shall be purchased and maintained by the City. Owners of a landmark who do not desire to have their property identified by a sign or monument may request that the sign or monument not be placed, or, if in place at the time of purchase, that it be removed.

(2) Placement.

Signs and monuments identifying historic landmarks for the public shall be placed near the front entrance of a structure at the owner's discretion or, subject to approval by the City Administrator, on City right-of-way adjacent to the resource. Approval of signs for sites adjacent to County right-of-way shall be subject to approval by the Douglas County Director of Public Works.

(3) Design of Signs.

The design of signs and monuments on private lands shall be decided by the Review Committee after consultation with the Douglas County Museum and Public Works Departments of Douglas County and the City of Myrtle Creek. Historical marker signs in

the right-of-way shall be placed in accordance with "*The Oregon Manual on Uniform Traffic Control Devices for Streets and Highways*".

SECTION 5.06.0 GENERAL STANDARDS FOR ACCESS AND CLEAR VISION.

Sections 5.06.1 through 5.06.3 impose general standards addressing access and areas of unobstructed view at intersections.

SECTION 5.06.1 ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street [see Section 5.10.9, Paragraph (1), Section 5.11.13, Paragraph (2) and Section 6.02.3]. All structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking and loading.

SECTION 5.06.2 CLEAR VISION AREAS.

In order to provide a clear view of intersecting streets to motorists, there shall be a triangular area of clear vision maintained at the intersection of two residential streets or a street and a railroad.

(1) **Height Limit.**

On any portion of a lot that lies within the triangular area described in Paragraph (2) and illustrated below, nothing shall be erected, placed, planted, or allowed to grow in such manner as to materially impede vision between a height of 2 ½ feet and 10 feet above the grade of the street centerline.

(2) **Measurement of CVA.**

The size of the triangular area is a function of traffic volume and speed and shall be measured as follows (see illustration below): From a point on each street centerline located 65 feet from the intersection of the street centerlines and a point on the intersecting street at a sight distance (LOS) of 90 feet from the intersection of the street centerlines and a third line connecting the two points. In a case where the street centerlines intersect at less than a 90 degree angle, then the sight distance shall be 90 feet plus 1 ½ feet for every degree less than 90 degrees.

SECTION 5.06.3 ACCESS FOR FIRE VEHICLES AND APPARATUS.

- (1) **Purpose.**
The purpose of this Section is to facilitate rapid and effective extinguishment of fires by ensuring that for all premises that a Fire Department may be called upon to protect and, in case of a fire, shall be readily accessible for effective Fire Department operations.
- (2) **Non-residential Uses.**
Every non-residential use permitted by this Ordinance shall provide access for fire vehicles and emergency apparatus from a public street as follows:
 - (a) A dead-end access exceeding 300 feet in length shall be provided with a turnaround 90 feet in diameter at the closed end.
 - (b) A fire lane per Paragraph (4) of this Section shall be required to provide access to any portion of any structure which is:
 - (i) More than 150 feet from the nearest street right-of-way when the structure is 35 feet or less in height; or
 - (ii) More than 50 feet from the nearest street right-of-way when the structure exceeds 35 feet in height.
 - (c) When fire vehicles and apparatus are provided access to a structure by means of either bufferyard area or adjoining property, the requirements of Section 5.06.3, Paragraph (2)(b) shall not apply.
- (3) **Other Considerations.**
In addition to the situations described in Paragraph (1) above, a fire lane to provide access to any part of a building may also be required:
 - (a) If it is determined that the distance of a structure from the nearest hydrant, the configuration of structures on a site, or other special characteristics of site otherwise inhibit rapid, effective fire extinguishment.
 - (b) In addition to private fire protection facilities required by the Building Code for any structure classified by the Building Code as a high hazard use, any structure to be occupied by uses which involve extreme risks of fire, smoke, explosion, or toxic gas or structures to be used as places of assembly for large congregations of people susceptible to panic.
- (4) **Fire Lane Standards.**
A fire lane shall comply with the following standards:
 - (a) The fire lane shall provide clear, unobstructed access for vehicles and apparatus at all times.
 - (b) Signs prohibiting parking or standing of motor vehicles shall be required.
 - (c) Fire lanes shall be 18 feet in width.
 - (d) The fire lane surface shall be an all-weather roadway.

- (e) Any alley may contribute all or part of a required fire lane if it meets all other requirements of this Section.
- (4) In lieu of meeting the standards specified above, a developer may substitute alternative means of ensuring the access necessary for effective Fire Department operations (including, but not limited to, fire resistant roofs, fire separation walls, space separation and automatic fire extinguishing systems). Such alternative means shall suffice to meet the requirements of this Section, provided that the chief officer empowered to provide fire service in the City concurs.

SECTION 5.07.0 BASIC CHARACTERISTICS OF A RESIDENTIAL SITE.

A lot or parcel to be developed for residential use shall comply with the following:

- (1) Lot Size & Shape.
The residential lot or parcel area shall be not less than 6000 square feet. The size, width, shape and orientation of the lot or parcel shall provide a building site that is appropriate in relation to adjacent land divisions, solar access, flood and other hazard conditions and the environmental protection requirements of this Ordinance.
- (2) Side Lot Lines.
As far as practical, the side property line of a lot or parcel 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. Where solar orientation is a consideration, a side lot line may vary from the above requirement if the variation will improve solar access.
- (3) Through Lots.
Through lots or parcels shall have a rear setback area equal to the required front setback area within which no structure shall be erected. Access to through lots or parcels shall be via the street frontage on the front side of the lot or parcel; there shall be no right of access to a street via the rear frontage.

SECTION 5.07.1 LIMITATION ON BUILDINGS.

In residential zones there shall be permitted only one main building on a lot, however, multiple-family and single-family attached dwellings that are all part of a single development may be excepted.

SECTION 5.07.2 DESIGN STANDARDS FOR HILLSIDE DEVELOPMENT.

Building construction in the Residential Hillside District will be approved under conditions that do not adversely affect the visual and physical identity of the hills. The grading of land and the orientation and design of a building will avoid creating conditions that will cause erosion or modify drainage patterns. Where there is some risk of these conditions occurring, certification will be obtained in accordance with Section 5.01.2, Paragraph (15) or (16) to ensure that the design and control measure will comply with this provision. The design standards specified herein shall be utilized in conjunction with the Residential Hillside District Regulations and the Protection Standards for Natural Features.

- (1) Maximum retention of natural topographic features and qualities is encouraged to avoid modification of hill areas that create unnatural geologic conditions or visually unappealing hillside configurations.
- (2) In the Residential Hillside District, buildings will be spaced and have roof types and exteriors to blend with the environment.
- (3) Construction work shall be scheduled and conducted to avoid erosion and to permit any control measure involving vegetative plantings to take place during optimal revegetation periods and to avoid unprotected disturbance of the ground during the storm season. Temporary stabilization measures may be needed until permanent installations are accomplished.

- (4) An access route within the Residential Hillside District will comply with the following:
 - (a) A road or pedestrian trail will be stabilized by planking, gravel or pavement.
 - (b) Vehicle access points to the development will be spaced the maximum distance that still permits reasonable access and will be located and designed to preserve the natural form and profile of the hillside affected by the access route.
 - (c) A roadway will be built without installation of fill or other forms of terracing unless certification is obtained assuring that such conditions will not be detrimental to the area of create unwarranted maintenance problems.
 - (d) The Planning Commission may authorize narrower pavement widths combined with parking bays, turning circles, and/or one-way traffic patterns to overcome a disadvantage of topography and to implement Paragraph (1) of this Section.
- (5) Access to known wildlife nesting and breeding habitats will be restricted.

SECTION 5.08.0 STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES.

The criteria set forth in the following Sections shall be utilized in considering an application for development of all commercial and industrial uses. The provisions of Section 5.08.1 through 5.08.4 specify standards for protection of the environment, including the landscaping requirements for non-residential uses.

SECTION 5.08.1 TRAFFIC.

- (1) The grouping of commercial uses into clusters or centers will be encouraged in order to avoid strip commercial development along arterials and highways.
- (2) In no case shall an industrial site be located where truck and employee traffic would be channeled onto local streets in residential areas.

SECTION 5.08.2 BUFFERYARDS.

A bufferyard is a unit of land together with the planting required thereon. Bufferyards shall be required to separate different land uses from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or dangers from fires or explosion.

- (1) Location of Bufferyards.
Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing or dedicated street or right-of-way and shall allow for adequate vision clearance at intersections and driveways.
- (2) Requirements.
Wherever the provisions of this Ordinance require a bufferyard to protect adjoining residential districts or other uses, the required yard shall be landscape as follows:
 - (a) A minimum of one row of deciduous or evergreen trees or a mixture of each and/or one row of evergreen shrubs extending the full width of the bufferyard and placed not more than five feet apart which shall grow to form a continuous hedge at least five feet in height within three years of planting; and,
 - (b) Lawn, low growing evergreen shrubs, evergreen ground cover, vegetables or bark mulch covering the balance of the required landscaped yard; and,
 - (c) All landscaped areas shall be continuously maintained and kept free of trash and debris.
- (3) Exception.
In order to deal more fairly with the uncertainty and timing of development of vacant land, the plant material required in a which abuts vacant land may have the time period allowed for maturity extended, although the quantity and placement shall remain the same. This allows time for the plant material to reach a size comparable to that which is otherwise required.

SECTION 5.08.3 SCREENING.(1) **Industrial Sites.**

Development of an industrial site which has frontage on an arterial street shall provide a sight-obscuring fence or sight-obscuring hedge placed on the setback line or building line of the industrial lot. shall also be provided where an industrial use is adjacent to a residential district. **Exception:** The Planning Commission shall have the authority to determine that the bufferyard requirements satisfy the screening requirements or that the landscaping and architectural treatment of the site as a whole meets the intent of the screening requirements where arterial frontage is concerned.

(2) **Storage Areas.**

Where commercial and industrial uses have outside , including trash receptacles or compactors, the storage area shall be enclosed by a sight-obscuring fence or sight-obscuring hedge in order to screen storage from view, in the following instances:

- (a) When the storage area abuts or faces a residential or other non-commercial, nonindustrial district;
- (b) When the storage area abuts or faces a collector or arterial street;
- (c) When the location of a storage area in a commercial district is neither of the above but is located as to be viewable by patrons of an adjacent commercial use, except that storage areas abutting storage areas of adjacent uses need not be screened from each other; and,
- (d) Outdoor sales/display areas of a vehicle sales lot which is permitted by this Ordinance shall not be considered a storage yard and are therefore exempt from screening requirements.

(3) **Screening Requirements.**

- (a) Sight-obscuring screening shall not be less than five feet in height except that screening within 20 feet of a street shall be a minimum of 2½feet in height but no more than 3½feet in height where necessary to allow for adequate vision clearance at intersections and driveways locations;
- (b) Required screening shall be at least 80% opaque when view horizontally from between two and ten feet above average grade;
- (c) Screen plantings shall be of such size as to provide the required degree of screening within 12 months after installation and shall be provided with adequate underground irrigation;
- (d) Required landscaping, screening and fences shall be continuously maintained and kept free of trash and debris;
- (e) Where fences are used to provide screening adjacent to the streets or where otherwise necessary, the undeveloped areas between the screening and curb or sidewalk shall be provided with a ground cover composed of plant materials or a combination of plant materials and bark mulch, rock or other non-planted landscaping material.

SECTION 5.08.4 ENVIRONMENTAL QUALITY.

No land or structure shall be used or occupied within the City of Myrtle Creek unless there is continuing compliance with the standards set forth in rules adopted by the State Department of or other appropriate agency. The following provisions shall apply to all industrial uses and conditions may be imposed prior to authorizing development in order to assure compliance.

- (1) Air and Water Pollution.
The discharge into the air or a body of water of solids, liquids, or gases in such quantities as to be detrimental to the public health, safety and welfare by causing injury to human, plant or animal life, or to property, is prohibited.
- (2) Waste.
Adequate provisions shall be provided for the disposal of sewage and waste materials. Such provisions shall meet the requirements of City ordinances and appropriate County and State agencies.
- (3) Heat, Glare, Light.
Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building and the heat, glare or light shall not be discernible at or beyond the property line. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.
- (4) Noise and Vibration.
Noise shall be muffled and shall not be objectionable due to intermittence, beat frequency or shrillness. No noise or vibration shall be permitted which is discernible without instruments at or beyond the property line for the use concerned. Noise made by devices which are maintained and utilized solely to serve as warning devices and noise created by highway vehicles and trains are excluded from these regulations.

MANUFACTURED HOMES

SECTION 5.09.1 PURPOSE.

The purpose of this Section is to ensure that the need for a variety of housing types in price ranges commensurate with the desires and economic means of the community's residents is adequately provided for by allowing manufactured homes to be placed on individual lots within the City. Furthermore, it is the intent of this Section to establish standards for permanent installation of manufactured homes in subdivisions as well as on individual lots; and, to establish specific standards which will enable manufactured homes to blend with conventional housing.

SECTION 5.09.2 PERMITTED LOCATIONS.

Manufactured home subdivisions and manufactured homes on individual lots may be established in any residential district subject to the specific development standards of the district and Section 5.09.3.

In considering the annexation of property which contains an existing manufactured home that does not meet the minimum standards prescribed by this Ordinance, the manufactured home may be allowed to continue as a pre-existing non-conforming use within the City if the mobile home substantially complies with the standards specified in Section 5.09.3 (1) and (2)(d). When it appears that such manufactured home cannot meet the intent of the standards set forth herein, the proposal for annexation may be denied.

SECTION 5.09.3 DEVELOPMENT STANDARDS - SPECIAL.

(1) **Dwelling Standards.**

All manufactured homes placed on individual lots, including lots within a designated manufactured home subdivision, shall meet the following minimum standards:

- a. The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet. For the purpose of this Section, the term multi-sectional does not include tip-out units or additions which were not manufactured as an integral part of the original design.
- b. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter.
- c. The manufactured home shall have exterior siding and roofing which in color, material and appearance is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.
- d. The manufactured home shall be equipped with skirting which is constructed with mortared concrete blocks on a poured footing, a poured stem wall on a poured footing or that utilizes other masonry products applied in such a manner that conforms to adopted state Uniform Building Code.
- e. The manufactured home shall have a minimum roof pitch of at least a 3 inch rise for each 12 inches of run.

- f. The manufactured home shall have a garage or carport of not less than a 12'x20' minimum (240 square feet) of unobstructed parking area and which is constructed with exterior siding and roofing materials consistent to those applied to the exterior of the manufactured home.

SECTION 5.10.0 MOBILE HOME PARKS.

A Mobile Home Park may only be located within a Zoning District which specifically allows Mobile Home Parks as a Permitted Use or Conditional Use. All Mobile Home Parks permitted under the provisions of this Ordinance shall comply with rules and regulations of the State of Oregon, Department of Commerce, Mobile Home Division, in addition to the review procedures and standards of development set forth in Section 5.10.1 through 5.10.11. After the final plan is reviewed and formally approved as specified herein, it shall be designated as the "Approved Plan". In the case of conflict in regulations within this Ordinance, the provisions of this Section shall govern.

SECTION 5.10.1 APPLICATION AND PLAN CHECK FEE.

Applications for a Mobile Home Park shall be made by the owner of the affected property or his authorized agent and shall be filed on forms as described in Section 9.02.0 at least 30 days prior to the Planning Commission meeting at which consideration is desired. The application shall be accompanied by the following:

- (1) Plan Check Fee.
In addition to any other fees or charges that may be applicable to a Mobile Home Park, a Plan Check established by the City of Myrtle Creek *Handbook of Fees and Charges* shall be submitted with the preliminary plan.
- (2) Written Statement.
A written statement shall be filed with the preliminary plan containing an explanation of:
 - (a) Number of housing units proposed (density);
 - (b) The method proposed to maintain common open areas, private streets, buildings and other facilities, proposed operation and management agreements, etc.;
 - (c) The proposed time schedule of the development; and
 - (d) Any other supporting data describing the character and/or operation of the proposed Mobile Home Park.
- (3) Site Plan.
Submit two (2) sets of plans and accompanying documents. All plot plans shall be appropriately identified as a preliminary plan or final plan and shall be drawn at a scale of 1"=50' or, for areas over 100 acres, 1"=100', or as otherwise approved by the City Engineer. The site plan shall contain any applicable information as described in Section 9.02.1 and shall clearly identify the location of each of the following:
 - (a) Property lines, boundary setbacks and both existing and proposed layout. (When the construction involves an addition to or re-modeling of an existing Mobile Home Park, the plot plan need only show the facilities related to the addition and the facilities to be remodeled.);
 - (b) Boundaries of each proposed mobile home space, with each space identified by a number, letter or name;
 - (c) Location of all utility connections serving each mobile home space or park facility;

- (d) Location and size of all water and sewer lines, location of power lines and other underground utilities;
 - (e) Location of all internal access roads and the relationship with outside streets. Indicate road widths and location of sidewalks;
 - (f) Location of fixtures for lighting streets and walkways;
 - (g) Location of fire and irrigation hydrants;
 - (h) Location of all park buildings, storage areas, play areas, recreation areas and common open space. Indicate dimensions in square feet of all required facilities;
 - (i) Location of mailboxes (if applicable), location of public telephone (for park residents) and location of "Directory";
 - (j) Location of patio and mobile home standards at each mobile home space, indicating size and materials; and
 - (k) Indicate the location and total number of parking spaces provided, including spaces located in storage yards for recreational equipment. Dimensions of a typical parking space shall be shown for each parking area location.
- (4) Landscaping Plan.
The preliminary plan shall include a conceptual layout indicating the location of all required landscaping. The final plan shall provide a detailed landscaping plan indicating location and type of plant materials, location of irrigation system and maintenance provisions.
- (5) Approved Plan.
Upon final approval of the Mobile Home Park, one print and one 3 mil mylar of the approved final plan shall be submitted to the City along with one copy each of recorded deed restrictions, management agreements and other finalized legal documents.

SECTION 5.10.2 APPROVAL PROCEDURE.

No construction, grading or filling shall begin and no Building Permit shall be issued for construction, enlargement, or alteration of any Mobile Home Park until final approval is granted as stated herein. There shall be a two stage review process for each Mobile Home Park development proposal, as follows:

- (1) Stage 1 - Preliminary Approval.
 - (a) In conjunction with any other related land use actions, including Zone Change, Variance or Conditional Use Permit approval, the Planning Commission shall conduct a public hearing to review the Mobile Home Park preliminary plans. The Planning Commission shall then forward a report containing their recommendations on the preliminary plan, together with their recommendations on any related land use actions, to the City Council for public hearing.
 - (b) Upon expiration of the appeal period (providing no appeal has been filed) and upon receipt of the report from the Planning Commission, the City Council shall hold a public hearing (as set forth in Section 9.04.0) on the Mobile Home Park

preliminary plan. After such hearing, the Council may require changes in the preliminary plan or impose any of the supplemental conditions set forth in Section 5.01.2 which it finds necessary to insure conformity to the standards contained in this Article. Following Council approval of the preliminary plan, the applicant will be directed to prepare the final plans and documents for submission to the Planning Commission. The Commission shall be authorized to grant final approval in accordance with Paragraph (3) of this Section.

- (c) In the case of an appeal of a Planning Commission decision to the City Council, the Council may refer the preliminary plan back to the Planning Commission for re-review prior to conducting the procedures set forth in Paragraph (2) of this Section.

(2) Stage 2. - Final Approval.

Within one year after approval of the preliminary plan, the applicant shall file a final plan for the entire development. If submission in phases has been authorized, the final plan will be approved in phases. The final plan shall be sufficiently detailed to indicate fully the ultimate appearance of the Mobile Home Park. Copies of legal documents required for dedication or reservation of public facilities or for deed restrictions, management agreements, etc., shall also be submitted. Upon receipt of the final plan, the Planning Commission shall examine such plans and documents to determine whether they conform in all substantial respects the previously approved preliminary plan and the stipulations of any other related land use actions. If the Planning Commission should require any changes, the Commission shall permit the applicant to revise the plan and/or documents and resubmit the final plan within 60 days. The decision of the Planning Commission shall be final. Final approval, either for a phase or for the entire plan, shall be valid for a 12 month period, however, the Planning Commission, in its discretion, may extend approval for additional six month periods provided written request from the applicant is submitted prior to the expiration date.

SECTION 5.10.3 OUTLINE DEVELOPMENT PLAN (OPTIONAL).

The Mobile Home Park application may be filed on the basis of an outline plan or the developer may omit this step and file his application based on the detailed preliminary plan. The purpose of an outline plan is to demonstrate the intent of the developer at an early stage of the plan with a minimum of design costs.

SECTION 5.10.4 PHASED DEVELOPMENT.

When an applicant desires to develop an approved preliminary plan in phases, the Council may authorize a time schedule for submitting the various phases for final approval in periods of time in excess of one year but in no case shall the total time period for submitting all phases be greater than five years without resubmission of the preliminary plan. Phases submitted for final approval after the passage of one year may be required to have modifications to avoid conflict with a change in the Comprehensive Plan or implementing regulations.

SECTION 5.10.5 LIMITATION ON RESUBMISSION.

Whenever an application for a Mobile Home Park has been denied, no application for the same plan or any portion thereof shall be heard by the Planning Commission within one year after the date of denial.

SECTION 5.10.6 FINANCIAL RESPONSIBILITY.

As a condition to granting final approval, the submission of satisfactory evidence that all improvements within the Mobile Home Park will be placed may be required. For the purpose of this Section, the criteria for satisfactory evidence set forth in the Subdivision Ordinance shall apply.

SECTION 5.10.7 ADHERENCE TO APPROVED PLAN AND MODIFICATION THEREOF.

The applicant shall agree in writing to be bound, for himself and his successors in interest, by the conditions prescribed for final approval. The approved final plan and phased development schedule shall control the issuance of all Building Permits and shall restrict the nature, location, and design of all uses. Minor changes in an approved plan may be authorized by the City Administrator if such changes are consistent with the purpose and general character of the approved plan. All other modifications, including extension or revisions of the phased development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedure requirements.

SECTION 5.10.8 GENERAL CONDITIONS AND LIMITATIONS.

- (1) Area.
A Mobile Home Park shall embrace an area of not less than five acres of land. Projects with less acreage may be considered where the applicant can demonstrate that a smaller parcel can meet the criteria for approval.
- (2) Density.
In no event shall the density exceed 10 mobile homes per gross acre.
- (3) Yard Regulations.
Each Mobile Home Park shall contain yard areas (setbacks) which shall be measured parallel to and at right angles from the front, side and rear property lines. The front and rear building setback lines shall extend the full width of the property. No building, structure or mobile home shall be located so that any part extends into the area between the building setback line and the property line. Fences and signs may be placed within the yard area as an exception to this paragraph. Yards shall be established as follows:
 - (a) Mobile Home Parks shall have a setback of at least 25 feet from any interior property line abutting residentially zoned property;
 - (b) Mobile Home Parks shall have a setback of at least 15 feet from any interior property line abutting commercially or industrially zoned property; and,

- (c) Mobile Home Parks shall have a setback of at least 20 feet from any abutting street right-of-way.
- (4) Development of Boundaries.
An ornamental, sight-obscuring fence or wall of not less than five feet nor more than six feet in height and/or evergreen planting of not less than five feet in height at planting, shall surround the Mobile Home Park. If the option of plant materials is chosen in lieu of a fence or wall, such planting shall meeting the screening standards of Section 5.08.3. The fence, wall or planting may be placed up to the property line if adequate vision clearance for entrances and exits is maintained.
- (5) Regulating Standards.
Rules establishing minimum safety standards for the design, construction, sanitation, operating, licensing, and maintenance of Mobile Home Parks are contained in ORS Chapter 446. The Department of Commerce shall review plans and inspect construction of Mobile Home Parks to insure compliance.
- (6) Buildings and Structures.
All buildings and structures within the Mobile Home Park boundaries shall comply with the Building Code, when regulated, by the Mobile Home Code, MFPA 501B 1974, ANSI A119.1 1975 or the Federal Mobile Home Construction Safety Standards.

SECTION 5.10.9 PARK DESIGN STANDARDS.

Design plans for all utilities, access roads and paved areas shall be submitted to the City Engineer following preliminary approval. Streets, sidewalks, curbs and drainage shall be designed and constructed in accordance with City standards. The City Engineer may specify additional design standards where applicable. Upon completion of Mobile Home Park construction, one set of "As-Builts" suitable for reproduction (15"x18" 3 mil mylar) shall remain on file with the City. Improvement standards for a Mobile Home Park are as follows:

- (1) Internal Roads and Access.
Vehicular access to the Mobile Home Park from abutting major or collector streets is permitted, however, vehicular access from minor streets is prohibited. No Mobile Home Park entrance shall be located closer than 100 feet from any intersection of any public street. Stop signs shall be provided at all intersections with public streets. Pedestrian access into the Mobile Home Park shall be provided by connecting the interior pedestrian pathway network with sidewalks located in the right-of-way of perimeter streets.
- (a) Internal access roads shall provide direct access to each mobile home space. Each mobile home space shall be served directly by a walkway not less than four feet in width and shall be separated from the vehicular roadways by at least a curb. Roadways and sidewalks shall be paved with a crushed rock and asphaltic or concrete surfacing according to specifications established by the City Engineer. The minimum surfaced width of the roadway within an accessway shall be 21 feet, if there is no parking allowed, and 31 feet, if parking is allowed. The first 50 feet of the accessway measured from the street shall be surfaced to a width of 30 feet and shall be connected to an existing street according to plans approved by the City Engineer. Road cul-de-sacs shall have a minimum outside turning radius of 40 feet. All corners shall have a minimum radius of 15 feet.

- (b) All accessways and walkways within the Park shall be lighted at night to provide a minimum of 1.5 foot candles of illumination. Wires for service to light poles and mobile home spaces shall be underground.
- (c) If the Park provides spaces for 50 or more mobile home units, each vehicular way in the Park shall be named and marked with signs which are similar in appearance to those used to identify public streets. A map of the names vehicular ways shall be provided to the Fire Department. Stop signs shall be provided at all intersections with public streets.
- (2) Directory.
For emergency response purposes, a permanent weatherproof sign board shall be located at, or near, the Park entrance indicating the location of each mobile home space, the space number or address, and the occupants name. The design and legibility of the directory shall be subject to review and approval by the City Fire Marshal and/or Police Chief.
- (3) Fire Protection.
If a mobile home space or permanent structure in the Park is more than 500 feet from a public fire hydrant, the Park shall have water supply mains designed to serve fire hydrants and hydrants shall be provided within 500 feet of such space or structure or as designated and approved by the City Engineer. Each hydrant within the Park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the City of Myrtle Creek.
- (4) Utilities.
Each mobile home space shall be provided with a connection to a City sewer and waterline and shall be individually metered. All utility services within the Park shall be underground.
- (5) Storage Yard.
Each Mobile Home Park shall provide storage yards for trailers, boats, campers and recreational equipment. The storage yard shall contain one parking space per mobile home space for the parking/storage of campers, trailers, boats, etc. The storage yard shall be constructed of a dust-free, all weather surface and shall be enclosed by a six foot high, sight-obscuring fence and gate. Wash racks, if provided, shall be located in the storage yard and shall have adequate drainage. Except for temporary storage of 30 days or less, no mobile home shall be stored in a Mobile Home Park unless it is properly installed in a mobile home space. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the Park except in the storage yard.
- (6) Off-street Parking.
In addition to the parking spaces contained in the storage yard, two vehicle parking spaces (meeting the dimensional standards of Article IV) shall be provided for each mobile home space. One of the required spaces may be located within the mobile home space with the remaining spaces in common parking areas. At least one-third of the total required parking spaces shall be distributed throughout the Park and made available for guest parking.
- (7) Landscaping.
In the design of the Mobile Home Park, every effort shall be made to retain existing trees. In addition:

- (a) All common yards and open spaces shall include trees not less than a number determined by dividing the number 25 into the number of lineal feet of frontage abutting public streets. All trees at planting shall be at least eight feet in height and shall have a trunk diameter of at least one inch measured one foot above ground;
 - (b) Not less than 20% of each mobile home space shall be landscaped. The plant material shall include one tree which, at planting, has a trunk diameter of at least one inch measured one foot above ground level. Trees located within each mobile home space will not be included in the minimum required of (7)(a) above;
 - (c) Tree selection shall be indicated on a landscape plan and be part of the site review/final approval process; and,
 - (d) An underground irrigation system shall be included with all landscaped areas and written assurance shall be given prior to final approval that all landscaping shall be adequately maintained.
- (8) Recreation/Open Space.
- (a) Each Mobile Home Park shall provide common open space consisting of an equal to 200 square feet per mobile home space for recreational purposes. Such recreation space may be broken up into separate areas providing each measures no less than 50 feet by 50 feet;
 - (b) Each Mobile Home Park shall provide a separate general play area restricted to that use if the Mobile Home Park accommodates children under 14 years of age. No separate play area shall be less than 2500 square feet in area. At least 100 square feet of play area shall be provided for each mobile home space accommodating children. The play area may be included as part of the total required open space. A separate play area is not required if the Mobile Home Park accommodates children who are under 14 years of age and is constructed so as to provide each space with a minimum of 4000 square feet; and
 - (c) Recreation areas shall be suitably improved and maintained for recreational purposes and for the type of residents for whom the Mobile Home Park is intended.
- (9) Management Office.
Each Mobile Home Park shall contain and maintain a management office. It shall have access to a lavatory and water closet. It shall provide suitable enclosed facilities for mail distribution and public telephone service.
- (10) Laundry Room.
Adequate and property equipped laundry room facilities shall be made available to the residents of the Mobile Home Park.
- (11) Mobile Home Space Requirements.
It shall be the option of the developer to design each mobile home space for either single-wide or double-wide mobile homes provided, however, that each space contains adequate area to allow for patio, tenant storage, parking, landscaping, setback and separation requirements and provided further that the following minimum space requirements are met:

- (a) The minimum size for a mobile home space in a Mobile Home Park shall be 3600 square feet. Each space shall have a minimum width of 40 feet and a minimum depth of 90 feet;
 - (b) Each mobile home space shall have a stand which is a minimum of 10 feet in width and 40 feet in length. Mobile home stands shall be paved with asphaltic or concrete surfacing or with crushed rock contained within concrete curbing or pressure treated wooden screens; and,
 - (c) Mobile homes shall be parked on stands provided, shall be setback a minimum of five feet from the edge of accessways and shall observe the setbacks as established in Section 5.10.8(3).
- (12) Patio.
Each mobile home space shall be provided with a patio having a minimum area of 140 square feet. The patio shall have a minimum width of seven feet and a minimum length of 20 feet and shall be constructed adjacent and parallel to each mobile home. Patios shall be paved with asphalt, concrete, or suitable hard-surfaced material.
- (13) Tenant Storage.
One permanent storage building containing a minimum of 32 square feet of floor area shall be provided for each mobile home space. The building height shall be a minimum of seven feet and a maximum of eight feet. However, a storage locker with a minimum of 75 cubic feet may be provided for each lot or in locker compounds within close proximity to the lot being served.
- (14) Separation Requirements.
The minimum space between any mobile home and any adjacent mobile home or permanent building, other than one permitted in a mobile home space, shall be 20 feet. Permanent structures situated in one mobile home space shall be separated by at least 10 feet from permanent structures in an adjoining space. All accessory buildings within each mobile home space shall be separated in accordance with the Building Code or the Department of Commerce Mobile Home Code, whichever is greater.

SECTION 5.10.10 MOBILE HOME CONSTRUCTION STANDARDS.

- (1) Placement Standards.
No mobile home may be placed or relocated within the Mobile Home Park without first obtaining a Mobile Home Placement Permit and each mobile home permitted shall meet the following standards as determined by the Building Official.
- (a) All mobile homes shall bear an Oregon Insignia of Compliance with a date not previous to 1972 or otherwise conform to the Department of Housing and Urban Development (HUD) Mobile Home Construction and Safety Standards in effect at that time. No reconstruction or equipment installation shall have been made to the mobile home unless it has been State approved as evidenced by an appropriate insigne. For units manufactured prior to 1972: Upon submission of evidence by the owner, the responsible Building Official may waive the "Insignia of Compliance" requirement if the evidence establishes that there is substantial compliance with the standards required in 1972;

- (b) A mobile home shall contain not less than 500 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device; and,
 - (c) A mobile home shall contain a water closet, lavatory, shower or tub and a sink in a kitchen or other food preparation space.
- (2) Skirting.
A mobile home permitted in a mobile Home Park shall be provided with continuous skirting or the perimeter of the foundation may be masonry units.
- (3) Axles Removed.
Wheels, hubs and axles may be removed from mobile homes. The mobile home pad may be developed by grading so that 50% of the perimeter of the mobile home abuts an earthen berm no more than six inches below the finished grade of the floor of the mobile home upon installation, with the remainder of the perimeter to be skirted with material compatible with the mobile home.

SECTION 5.10.11 ACCESSORY STRUCTURES

- (1) Structures Permitted.
Permitted accessory structures include, but are not limited to, carports, storage lockers, laundry facilities, swimming pools, recreation, management and community buildings.
- (a) All accessory structures shall be of a consistent design and shall be constructed in accordance with the Building Code; and,
 - (b) No structural additions shall be built onto or become part of any mobile home and no mobile home shall support any building in any manner. The words "structural additions" shall not be construed to exclude the construction of any awning or patio cover adjacent to a mobile home. Cabanas, ramadas and similar structures shall not be permitted.
- (2) Inclusion In Approved Plan.
Subsequent to Mobile Home Park approval, any Building Permit applied for at a later date for accessory Structures which were not included in, or approved as part of, the overall plan shall be referred to the Planning Commission with a request for inclusion in the plan as a "Plan Amendment".

SECTION 5.11.0 PLANNED DEVELOPMENT

The purpose of a Planned Development is to permit the application of new technology by allowing a greater freedom of design in land development than may be possible under a strict interpretation of the provisions of the general District Regulations. The use of these provisions are dependent upon the submission of an acceptable plan and satisfactory assurance it will be carried out. A Planned Development, as defined in Article II, may either be residential or commercial in nature or may contain a combination of compatible uses. A Planned Development may be located within any Zoning District as a Conditional Use provided such plans accomplish substantially the same general objectives as the Comprehensive Plan of the City of Myrtle Creek. After the final plan is reviewed and formally approved as specified herein, it shall be designated as the approved plan. In the case of a conflict in regulations, the provisions of Section 5.11.1 through 5.11.14 shall govern.

SECTION 5.11.1 OBJECTIVE.

A Planned Development endeavors to provide:

- (1) A choice in the types of environment, occupancy, tenure (e.g. cooperatives, individual ownership, condominiums, leasing, etc.), housing and accessory community facilities.
- (2) Useable open space and recreation areas.
- (3) Convenience in location of accessory commercial and service areas.
- (4) Preservation of natural topographical and geological features with emphasis on preservation of soil erosion, conservation of existing surface and subsurface water and preservation of major trees or other environmentally enhancing features.

SECTION 5.11.2 APPLICATION AND PLAN CHECK FEE.

Applications for a Planned Development shall be made by the owner of the affected property or his authorized agent and shall be filed on forms as described in Section 9.02.0 at least 30 days prior to the Planning Commission meeting at which consideration is desired. The application shall be accompanied by the following:

- (1) Plan Check Fee.
In addition to any other fees or charges that may be applicable to a Planned Development, a plan check established by the *City of Myrtle Creek Handbook of Fees and Charges* shall be submitted with the preliminary plan.
- (2) Written Statement.
A written statement shall be filed with the preliminary plan containing an explanation of:
 - (a) The character of the proposed development and the manner in which it has been designed to take advantage of the concept and how and why the development conforms to the Comprehensive Plan;
 - (b) Number of housing units proposed (density);

- (c) If commercial or industrial activities are to be included in a zone in which they are not permitted under the general District Regulations, a detailed statement of the economics of such development and supporting data shall be submitted;
 - (d) The present ownership of all of the land included within the Planned Development;
 - (e) The method proposed to maintain common open areas, buildings and other facilities, private streets or jointly held properties (i.e., corporations, homeowners associations, etc); and,
 - (f) The proposed time schedule for development.
- (3) Site Plan.
Submit two sets of plans and accompanying documents containing the information described in Section 9.02.1. All plot plans shall be drawn at a scale of 1"=50' or, for areas over 100 acres, 1"=100', or as otherwise approved by the City Engineer. The developer shall obtain a trained and experienced registered architect, landscape architect, surveyor and/or engineer to prepare plans for all Planned Developments to enable the most expeditious processing for such developments.
- (4) Landscaping Plan.
The preliminary plan shall include a conceptual layout indicating the location of all required landscaping. The final plan shall provide a detailed landscaping plan indicating location and type of plant materials, location of irrigation system, and maintenance provisions.
- (5) Approved Plan.
Upon final approval of the Planned Development, one print and one 3-mil mylar of the approved plan or recorded plat, if applicable, shall be submitted to the City along with one copy of each of recorded deed restrictions, management agreements and other finalized documents.

SECTION 5.11.3 APPROVAL PROCEDURE.

No construction, grading or filling shall begin and no Building Permit shall be issued for construction, enlargement or alteration of a Planned Development until final approval is granted as stated herein. A Planned Development shall also be subject to the laws and ordinances relating to condominiums and subdivisions, when applicable, and the City shall have received a copy of the properly recorded plat before a Building Permit will be processed. There shall be a three stage process for each Planned Development proposal, as follows:

- (1) Stage 1 - Use Permit.
An application for a Conditional Use Permit shall be filed in accordance with the procedures of Article VII. Approval of the Conditional Use Permit shall give tentative approval of the use of the proposed location for Planned Development purposes contingent upon submission of acceptable plans and final approval of the proposed development. The decision of the Planning Commission to approve or deny a Conditional Use Permit is subject to appeal as set forth in Section 9.05.0.
- (2) Stage 2 - Preliminary Approval.
 - (a) Following, or in conjunction with, Conditional Use Permit approval, the Planning Commission shall conduct a site review of the preliminary plan. The Planning

Commission shall then forward a report containing their recommendations on the Planned Development to the City Council for public hearing.

- (b) Upon expiration of the appeal period (providing no appeal has been filed) and upon receipt of the report from the Planning Commission, the City Council shall hold a public hearing (as set forth in Section 9.04.0) on the preliminary plan. After such hearing, the Council may require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to the criteria and standards contained in this Article and to the Subdivision regulations of the City, if applicable. Following Council approval of the preliminary plan, the applicant will be directed to prepare the final plans and documents for submission to the Planning Commission. The Commission shall be authorized to grant final approval in accordance with Paragraph (3) of this Section.
- (c) In the case of an appeal, but where the decision of the Planning Commission to approve the Conditional Use Permit is upheld, the Council may refer the preliminary plan back to the Planning Commission for re-review prior to conducting the procedures set forth in Paragraph (2)(b) of this Section.

(3) Stage 3. - Final Approval.

Within one year after approval of the preliminary plan, the applicant shall file a final plan for the entire development. If submission in phases has been authorized, the final plan will be approved in phases. The final plan shall be sufficiently detailed to indicate fully the ultimate appearance of the Planned Development. Copies of legal documents required for dedication or reservation of public facilities or for deed restrictions, management agreements, etc., shall also be submitted. Upon receipt of the final plan, the Planning Commission shall examine such plans and documents to determine whether they conform in all substantial respects the previously approved preliminary plan and the stipulations of the Conditional Use Permit. If the Planning Commission should require any changes, the Commission shall permit the applicant to revise the plan and/or documents and resubmit the final plan within 60 days. The decision of the Planning Commission shall be final subject to the procedures of Paragraph (4) of this Section. Final approval, either for a phase or for the entire plan, shall be valid for a 12 month period. However, the Planning Commission, in its discretion, may extend approval for additional six month periods provided written request from the applicant is submitted prior to the expiration date.

(4) Filing of Plats.

In the case of a Planned Development which involves a subdivision or condominium plat and upon Planning Commission determination that the final plan and supplementary documents conform to all requirements, the following shall apply:

- (a) The Planning Commission shall give its approval and forward the subdivision plat to the City Council to be signed by a representative of the City in accordance with the procedures regulating subdivisions. The subdivider shall, without delay, submit the plat for all other signatures required by law. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date of the last required signature.
- (b) Condominium plats shall conform to Oregon law and are not reviewed by the Planning Commission.

SECTION 5.11.4 OUTLINE DEVELOPMENT PLAN (OPTIONAL).

The Planned Development Conditional Use Permit application may be filed on the basis of an outline plan or the developer may omit this step and file his application based on the detailed preliminary plan. The purpose of an outline plan is to demonstrate the intent of the developer at an early stage of the plan with a minimum of design costs.

SECTION 5.11.5 PHASED DEVELOPMENT.

When an applicant desires to develop an approved preliminary plan in phases, the Council may authorize a time schedule for submitting the various phases for final approval in periods of time in excess of one year but in no case shall the total time period for submitting all phases be greater than five years without resubmission of the preliminary plan. Phases submitted for final approval after the passage of one year may be required to have modifications to avoid conflict with a change in the Comprehensive Plan or implementing regulations.

SECTION 5.11.6 LIMITATION ON RESUBMISSION.

Whenever a Conditional Use Permit for a Planned Development has been denied, no application for the same plan or any portion thereof shall be filed by the same applicant within one year after the date of denial.

SECTION 5.11.7 FINANCIAL RESPONSIBILITY.

As a condition to granting final approval, the submission of satisfactory evidence that the streets, utilities, parking areas and sidewalk improvements will be placed shall be required. The submission of satisfactory evidence for improvements in the common area may also be required. For the purpose of this Section, the criteria for satisfactory evidence set forth in the Subdivision Ordinance shall apply.

SECTION 5.11.8 ADHERENCE TO APPROVED PLAN; AND MODIFICATION THEREOF.

The applicant shall agree in writing to be bound, for himself and his successors in interest, by the conditions prescribed for approval of a development. The approved final plan and phased development schedule shall control the issuance of all Building Permits and shall restrict the nature, location, and design of all uses. Minor changes in an approved plan may be authorized by the City Administrator if such changes are consistent with the purpose and general character of the approved plan. All other modifications, including extension or revisions of the phased development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedure requirements.

SECTION 5.11.9 MINIMUM AREA OF DEVELOPMENT.

- (1) The minimum area for a Planned Development shall be 2½ contiguous acres of land except as allowed by Paragraph (2) below.

- (2) A Planned Development may be for a tract of land that will accommodate six or more units if the Planning Commission finds, upon a showing by the landowner, that a Planned Development is in the public interest because one or more of the following conditions exist:
- (a) An unusual physical or topographic feature of importance to the people of the area, or the community as a whole, exists on the site or in the neighborhood which can be conserved and still leave the landowner equivalent use of the land by the use of a Planned Development; or
 - (b) The property or its neighborhood has a historical character of importance to the community that will be protected by the use of a Planned Development; or
 - (c) The property is adjacent to property which has been developed or redeveloped under a Planned Development and a Planned Development will contribute to the maintenance of the amenities and values of the neighboring Planned Development.

SECTION 5.11.10 GENERAL REQUIREMENTS.

A Planned Development is designed as a single entity in order to promote flexibility and innovation in design and preservation of special features of the site. The design shall, however, be consistent with the general use provisions of the District Regulations. A Planned Development may be designed as a related group of dwelling units (single-family, duplex, dwelling, zero side yard dwellings, multi-family or condominiums) or for a number of uses according to a plan which is susceptible to development and regulations as one complex land unit, rather than an aggregation of individual buildings located on separate lots.

- (1) Setbacks.
Minimum lot size, front, side and rear yards and lot width shall not be regulated specifically by the zoning district, but will be determined during the Planned Development process. Dimensional standards will be based on density, fire and life safety, access to sunlight, the relationship of buildings to each other, the street system and open space land.
- (2) Building Height.
The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the Planned Development is proposed, except that a greater height may be approved if surrounding open space within the Planned Development, building setbacks, and other design features are used to avoid any adverse impact due to the greater height.
- (3) Accessory Uses.
In addition to the accessory uses typical of the primary uses authorized, accessory uses approved as part of a Planned Development may include the following uses:
 - (a) Golf course
 - (b) Private park, lake or waterway
 - (c) Recreation area
 - (d) Recreation building, club house or social hall

- (e) Other accessory structures which the Planning Commission finds are designed to serve primarily the residents of the Planned Development and which are compatible to the design of the Planned Development.

SECTION 5.11.11 DENSITY.

The residential density of a Planned Development shall not exceed the density of the district in which it is located. Except for the Site Capacity Calculation of the R-H District, the gross area shall be used when calculating density. Areas of public or semi-public uses within the Planned Development will be included in calculating gross density. However, the applicant may choose to utilize, as an alternative option to the gross density calculation, the Site Capacity Calculation contained in the R-H District Regulations (Section 3.01.8) for a Planned Development located in any of the other districts when the Site Capacity Calculation is found to provide superior standards for protection of the land or the development in general.

SECTION 5.11.12 COMMON PROPERTY.

Common property in a Planned Development is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants. When common property exists, the ownership of such common property may be either public or private. Satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.

(1) Creation of Common Property.

No area may be accepted as common property within a Planned Development unless it meets the following requirements:

- (a) The location, shape, size and character of the open space is suitable for the Planned Development;
- (b) The common property is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the Planned Development, considering its size, density, expected population, topography and the number and type of dwellings provided;
- (c) Common property will be suitably improved for its intended use, except that common areas containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common property shall be appropriate accessory uses or amenities;
- (d) The development schedule which is part of the development plan coordinates the improvement of the common property (including the construction of buildings and other structures) with the construction of residential dwellings in the Planned Development; and,
- (e) If buildings, structures or other improvements are to be made in the common property, the developer provides a bond or other adequate assurance that the buildings, structures and improvements will be completed. The City shall release the bond or other assurances when the buildings, structures or other improvements have been completed according to the development plan.

(2) Conveyance of Common Property.

Land shown on the final plan as common property shall be conveyed under one of the following options:

- (a) To either a public agency or to the City of Myrtle Creek. The public agency or the City shall agree to maintain the common open space and any buildings, structures or other improvements which have been placed on it; or,
 - (b) To an of owners or tenants, created as a non-profit corporation under the laws of the State, which shall adopt and impose articles of incorporation and by-laws and adopt and impose a declaration of covenants and restrictions on the common property that is acceptable to the Planning Commission and City Council as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common property.
- (3) Permitted Uses.
No common property may be put to a use not specified in the approved plan unless the approved plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common property and all rights to enforce these covenants against any use permitted are expressly reserved.
- (4) Enforcement of Provisions.
If the common property is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common property shall authorize the City to enforce their provisions.

SECTION 5.11.13 IMPROVEMENT STANDARDS.

The same improvements shall be installed to serve each building site in a Planned Development as is required of a subdivision. Design plans for all utilities, access roads and paved areas shall be submitted to the City Engineer following preliminary approval. Streets, sidewalks, curbs and drainage shall be designed and constructed in accordance with City standards. The City Engineer may specify additional design standards where applicable. Upon completion of construction, one set of "As-Builts" suitable for reproduction (15" x 18", 3-mil mylar) shall be submitted to the City. The following standards shall apply in conjunction with those set forth in the Subdivision Ordinance.

- (1) Utilities.
All utilities, including wires for service to light poles, shall be underground.
- (2) Private streets.
A private may be permitted in a Planned Development if provisions are made to assure responsibility for future maintenance. Unless otherwise specifically authorized as part of a street plan, a private street shall comply with the same standards as a public street.
- (3) Street signs.
Each vehicular way in the Planned Development shall be named and marked with signs which have been approved by the City Engineer. A map of the named vehicular ways shall be provided to the Fire Department.
- (4) Fire protection.
If a permanent structure in the Planned Development is more than 500 feet from a public fire hydrant, the Planned Development shall have water supply mains designed to serve fire hydrants and hydrants shall be provided within 500 feet of each structure or as designated and approved by the City Engineer. Each hydrant within the Planned

Development shall be located in a vehicular way and shall conform in design and capacity to the public hydrants in the City of Myrtle Creek.

SECTION 5.11.14 CONTROL OF DEVELOPMENT AFTER COMPLETION.

The approved plan shall continue to control the Planned Development after it is finished and the following shall apply:

- (1) Certificate of Completion.
The Building Official, in issuing a Certificate of Completion of the Planned Development, shall note the issuance on the approved plan.
- (2) Amendments/Redevelopment.
After the Certificate of Completion has been issued, the use of the land and the construction or alteration of a building or a structure in the Planned Development shall be governed by the approved plan as follows:
 - (a) An amendment to a completed Planned Development may be approved in accordance with Section 5.11.8 if it is appropriate because of changes that have occurred since the final plan was approved or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related land use regulations; and,
 - (b) A building or structure that is totally or substantially destroyed may be reconstructed if it is in compliance with the approved plan.

City of Myrtle Creek, Oregon

SUBDIVISION ORDINANCE

LAST REVISED SEPTEMBER 17, 1991

TABLE OF CONTENTS

ARTICLE I. INTRODUCTORY PROVISIONS

- 1.010 TITLE
- 1.020 PURPOSE AND INTENT
- 1.030 DEFINITIONS
- 1.040 SCOPE OF REGULATIONS
- 1.050 FEES AND CHARGES

ARTICLE II. TENTATIVE SUBDIVISION PLAN

- 2.010 SUBMISSION OF TENTATIVE SUBDIVISION PLAN
- 2.011 SCALE
- 2.020 GENERAL INFORMATION
- 2.021 EXISTING CONDITIONS
- 2.022 PROPOSED PLAN OF SUBDIVISION
- 2.030 PARTIAL DEVELOPMENT
- 2.040 EXPLANATORY INFORMATION WITH TENTATIVE PLAN

- 2.050 SUPPLEMENTAL PROPOSALS WITH TENTATIVE PLAN**
- 2.060 PRELIMINARY REVIEW OF TENTATIVE PLAN**
- 2.070 APPROVAL OF TENTATIVE SUBDIVISION PLAN**
- 2.080 STAGED DEVELOPMENT FOR SUBDIVISIONS**

ARTICLE III. SUBDIVISION PLAT

- 3.010 SUBMISSION OF SUBDIVISION PLAT**
- 3.011 SCALE**
- 3.020 INFORMATION ON PLAT**
- 3.030 SUPPLEMENTAL INFORMATION WITH PLAT**
- 3.040 TECHNICAL PLAT REVIEW**
- 3.050 APPROVAL OF THE PLAT**
- 3.060 FILING OF PLAT**
- 3.061 PAYMENT OF TAXES REQUIRED**

ARTICLE IV. STREETS OUTSIDE SUBDIVISION

- 4.010 CREATION OF PUBLIC STREET OUTSIDE SUBDIVISION**
- 4.020 CREATION OF PRIVATE STREET**

ARTICLE V. LAND PARTITIONING

- 5.010 GENERAL REQUIREMENTS**
- 5.015 APPLICATION PROCEDURE**
- 5.020 APPROVAL OF PRELIMINARY PLAN**
- 5.025 PREPARATION OF FINAL MAP**
- 5.030 APPROVAL OF FINAL MAP**
- 5.040 FILING OF MAP**

ARTICLE VI. IMPROVEMENT GUARANTEE

- 6.010 AGREEMENT FOR IMPROVEMENTS**
- 6.020 BOND**

ARTICLE VII. DESIGN STANDARDS

- 7.010 PRINCIPALS OF ACCEPTABILITY**
- 7.020 STREETS**
- 7.030 BLOCKS**
- 7.040 BUILDING SITES**
- 7.041 GRADING OF BUILDING SITES**
- 7.050 BUILDING LINES**
- 7.060 LARGE BUILDING SITES**

- 7.070 LAND FOR PUBLIC PURPOSES**
- 7.080 SPECIAL DISTRICT - FLOOD HAZARD AREA**

ARTICLE VIII. IMPROVEMENTS

- 8.010 IMPROVEMENT PROCEDURES**
- 8.020 SPECIFICATIONS FOR IMPROVEMENTS**
- 8.030 IMPROVEMENTS IN SUBDIVISIONS**
- 8.040 IMPROVEMENTS IN PARTITIONS**
- 8.050 PROPERTY LINE ADJUSTMENT**

ARTICLE IX. EXCEPTIONS, VARIANCES & ENFORCEMENT

- 9.010 EXCEPTIONS IN CASE OF PLANNED DEVELOPMENT**
- 9.015 CONDITIONS FOR REDUCED PAVEMENT WIDTH**
- 9.020 VARIANCE APPLICATION**
- 9.025 APPEAL PROCEDURE**
- 9.030 SEVERABILITY**
- 9.040 PENALTIES FOR VIOLATION**
- 9.050 AMENDMENTS**
- 9.060 REPEAL OF CONFLICTING ORDINANCES**

ARTICLE I. INTRODUCTORY PROVISIONS

section 1.010. title.

This ordinance shall be known as the City of Myrtle Creek Subdivision Ordinance of 1980. An Ordinance regulating the subdivision of land and other land partitioning standards and procedures and repealing all parts of Ordinances No. 327, 352, 368 and 411.

section 1.020. Purpose and intent.

This ordinance is enacted to establish procedures and standards for the partitioning and subdivision of land within the City of Myrtle Creek and to implement the Comprehensive Plan. These regulations prescribe the proper width and arrangement of streets, provisions for installation of public utilities and provision of adequate open space (for recreation and community facilities) with the aim of accomplishing:

1. The creation of satisfactory living conditions in new subdivisions.
2. A population density which is neither undue nor excessive.
3. The protection, conservation, and proper use of land.
4. The extension of public utilities without excessive expenditures.
5. The simplification and increased accuracy of land description.
6. The protection of land purchases from excessive assessment for further utility installations.
7. The protection of health, safety, and general welfare of the public.

section 1.030. definitions.

As used in this ordinance the following words and phrases shall have the following meanings:

Building line: A line on a plat or map indicating the limit beyond which buildings or

structures may not be erected.

Building Site: The ground area of a building or buildings, together with all open spaces required by the Zoning Ordinance.

City: The City of Myrtle Creek.

Comprehensive Plan: A City plan for the guidance of growth and improvement of the City, including modifications or refinements which may be made from time to time.

Easement: A grant of the right to use a strip of land for specific purposes not a transfer of ownership of that land.

Lot: A unit of land that is created by a subdivision of land.

- A. Corner lot: A lot abutting on two or more streets other than alley, at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty five degrees (135°).
- B. FLAG LOT: A lot which has its main building area not fronting on a street and that is connected to a street by a strip of land twenty-five feet (25') or more in width.
- C. Reversed Corner lot: A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
- D. Through lot: A lot having frontage on two (2) parallel or approximately parallel streets other than alleys.

Map: A final diagram, drawing or other writing concerning a land partition.

Parcel: A unit of land that is created by a partitioning of land.

Partition: Either an act of partitioning land or an area of tract of land partitioned as defined in this Section.

Partition Land: To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land

under single ownership at the beginning of such year. "Partition Land" does not include divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including, but not limited to, court orders in proceedings involving testate or intestate succession; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created, and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of the Zoning Ordinance.

Pedestrian Way: A right-of-way for pedestrian traffic.

Person: A natural person, firm, partnership, association, social, or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

Planned Development: Is one which stays within the density requirements of area in which it is located for the overall project while allowing a degree of latitude in describing individual lot sizes and also has a percentage of its gross area devoted to recreational development or open space uses.

Planning Commission: The Planning Commission of the City of Myrtle Creek.

Plat: The final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

PROPERTY LINE: The division line between two units of land.

PROPERTY LINE ADJUSTMENT: The relocation of a common property line between two abutting properties.

Right-of-way: The area between boundary lines of a street or other easement.

Roadway: The portion of a street right-of-way developed for vehicular traffic.

Sidewalk: A pedestrian walkway with permanent surfacing.

Street: A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road", "highway", "lane", "alley", or similar designations.

- A. Alley: A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
- B. Arterial: A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.
- C. Collector: A street supplementary to the arterial street system and a means of intercommunication between this system and small areas; used to some extent for through traffic and to some extent for access to abutting properties.
- D. Cul-de-Sac (Dead-end Street): A short street having one end open to traffic and being terminated by a vehicle turnaround.
- E. Marginal Access Street: A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
- F. Minor Street: A street intended primarily for access to abutting properties.

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

Subdivision: Either an act of subdividing land or an area or tract of land subdivided as defined in this Section.

section 1.040. scope of regulations.

No land may be subdivided or partitioned except in accordance with these regulations and no person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the City. A person desiring to subdivide or partition land shall submit tentative plans and final documents for approval as provided by this ordinance and State law.

section 1.050. fees and charges.

1. PROCESSING FEE: Fees to defray the cost incurred in the review and

investigation of and action upon proposed subdivisions and partitions submitted for approval pursuant to this ordinance shall be paid to the City Treasurer at the time of filing petitions and applications and shall be the City of Myrtle Creek's Handbook of Fees and Charges.

2. INSPECTION FEE: A service charge for inspection of improvement installed and any other services provided shall be paid to the City Treasurer prior to acceptance by the City of improvements in an amount not to exceed the actual cost of performing the inspection or other service which have been provided.
3. PLANNED DEVELOPMENT: A Planned Development, when individual parcels are created, is subject to the same processing and inspection fees as a subdivision or partition.
4. OTHER FEES: Any filing or recording fees required by Douglas County or the State of Oregon shall be paid by the applicant.

article II.

tentative subdivision plan

section 2.010. submission of tentative subdivision plan.

A subdivider shall prepare a tentative plan together with improvement plans and other supplementary material as may be required to indicate the general program and objectives of the project, and shall submit ten (10) copies of the tentative plan to the City Administrator's office at least thirty (30) days prior to the Planning Commission meeting at which consideration of the plan is desired.

section 2.011. scale.

The tentative plan of a subdivision shall be drawn on a sheet eighteen inches by twenty four inches (18"x24") or a multiple thereof at a scale of one inch equals fifty feet (1"=50') feet or, for areas over one hundred acres, one inch equals one hundred feet (1"=100'), or as otherwise approved by the City Engineer.

section 2.020. general information.

The following general information shall be shown on the tentative plan of a subdivision:

1. The proposed name of the subdivision, which shall be subject to approval by the County Surveyor. The name shall not duplicate nor resemble the name of another subdivision or as is otherwise provided by ORS 92.090.
2. Date, north point and scale of drawing.
3. Appropriate identification of the drawing as a "tentative plan".
4. Location of the subdivision sufficient to define its location and boundaries and a legal description of the tract boundaries.
5. Names and addresses of the owner, subdivider, and engineer or surveyor.

section 2.021. existing conditions.

The following existing conditions shall be shown on the tentative plan.

1. The location, widths and names of both opened and unopened streets within or adjacent to the tract, together with easements and other important features such as Section lines, Section corners, City boundary lines, and monuments.
2. Contour lines related to some U.S. Coast and Geodetic bench mark or other datum approved by the City Engineer and having two foot contour intervals.
3. The location of at least one temporary bench mark within the subdivision boundaries.
4. The identification of areas of potential natural hazards which shall include, but are not limited to, areas of greater than 25% slope, areas of mass movement, and areas of potential flooding hazards, where the special site criteria of Zoning District R-H or SD-FHA shall apply.
5. The location and direction of water courses and the identification of natural features such as rock outcroppings, marshes, wooded areas, orchards, isolated preservable trees, riparian vegetation, wildlife habitat or other significant natural resource.
6. Existing uses of the property and location of existing structures to remain

on the property after platting.

7. Zoning within and adjacent to the tract.
8. The location and size, if known, of any existing water or sewer service lines, culverts and drainage way or other underground utilities within the parcel to be subdivided, or immediately adjacent, and the location of power poles.

section 2.022. proposed plan of subdivision.

The following information shall be included on the tentative plan of a subdivision.

1. The location, width, names, approximate grades and radii of curves of proposed streets. The relationship of streets to projected streets as shown on any development plan or, if no complete development plan is in effect in the area, as suggested by the Planning Commission to assure adequate traffic circulation.
2. The location, width and purpose of proposed easements.
3. The location and approximate dimensions of proposed lots and the proposed lot and block numbers and squares footage in each proposed lot.
4. Proposed sites, if any, allocated for purposes other than single-family dwellings.

section 2.030. partial development.

If the subdivision proposal pertains to only part of the tract owned or controlled by the subdivider, a sketch of a tentative layout for streets in the unsubdivided portion shall be required.

section 2.040. explanatory information with tentative plan.

Any of the following information may be required. If it cannot be shown practicably on the tentative plan of a subdivision, it shall be submitted in separate statements accompanying the plan.

1. A vicinity map showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities may be extended to connect to existing streets and utilities.
2. Proposed deed restrictions, if any, in outline form.
3. The location within the subdivision, and in the adjoining streets and property, of existing sewers, water mains, culverts, drain pipes and electric lines.

section 2.050. supplemental proposals with tentative plan.

Any of the following may be required by the Planning Commission to supplement the plan of subdivision.

1. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.
2. A plan for domestic water supply lines and sewer service lines.
3. Proposals for storm water drainage and flood control, including profiles of proposed drainage ways.
4. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.
5. Proposals for other improvements such as electric services, telephone, gas, cable television, street lights and sidewalks.

section 2.060. preliminary review of tentative plan.

The developer shall provide the City Administrator and all agencies believed to have an interest with copies of the tentative plan. A coordination meeting of the City Administrator and the affected agencies, along with the developer and his engineer, shall take place prior to review by the Planning Commission.

section 2.070. approval of tentative subdivision plan.

1. Within 40 days following submission of a tentative plan, the Planning Commission shall conduct a Public Hearing thereon and shall review the plan for

completeness and compliance with the Zoning Ordinance and other applicable regulations. Notice and conduct of hearing shall be in accordance with Section 9.040.0 of Ordinance No. 508. The Planning Commission may approve a tentative plan as submitted or as it may be modified. The Planning Commission shall take final action on an application for approval of a tentative plan within 180 days after the application is found to be complete.

2. Approval of the tentative plan shall not constitute final acceptance of the plat for recording, however, approval of the tentative plan shall be binding upon the City for the purposes of preparation of the plat and the City may require only such changes in the plat as are necessary for compliance with the terms of approval.

3. The action of the Planning Commission shall be noted on two copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be returned to the subdivider and the other shall be retained by the City.

4. The action or ruling of the Planning Commission may be appealed by an affected or aggrieved party to the City Council within thirty (30) days after the Planning Commission has rendered its decision on the tentative plan. Written notice of the appeal shall be filed in accordance with Section 9.025 of this ordinance.

section 2.080. staged development for subdivision.

When an applicant desires to record and develop subdivision plats covering portions of an approved tentative plan in stages, the Planning Commission may authorize a time schedule for platting the various stages in periods of time in excess of one (1) year but in no case shall the total time period for platting all stages be greater than five (5) years without resubmission of the tentative plan. Each stage so platted and developed shall conform to the applicable requirements of this ordinance. Portions platted after the passage of one (1) year may be required to have modifications to avoid conflict with a change in the Comprehensive Plan or implementing regulations (i.e., Zoning Ordinance). If any other secondary permits are required for the development, the time period shall be included in the initial approval of the permit applications.

article iii.

subdivision plat

section 3.010. submission of the subdivision plat.

Within one (1) year after approval of the tentative plan, the subdivider shall cause the subdivision or any part thereof to be surveyed and a plat prepared in conformance with the tentative plan as approved. The subdivider shall submit the original drawing, five (5) prints and any supplementary information to the City. If the subdivider wishes to proceed with the subdivision after the expiration of the one (1) year period following the approval of the tentative plan, he must submit a new tentative plan and make any revision necessary to meet conditions.

section 3.011. scale.

All plats, dedications of streets or roads or public parks and squares and other writings made a part of such plats offered for records shall be made in black India ink, upon material that is eighteen inches by twenty-four inches (18"x24") in size and is approved as suitable for binding and copying purposes (5 mil mylar or similar material). The plat shall be drawn to a scale of one inch equals fifty feet (1"=50') or one inch equals one hundred feet (1"=100'), and the lettering of approvals, and of the dedication and affidavit of the surveyor, shall be of such size or type as will be clearly legible, but not part shall come nearer to any edge of the sheet than 1 inch. All information on the plat shall be enclosed by a black border. The plat may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for plats placed upon two or more sheets. Plat materials may be placed on both sides of a sheet.

section 3.020. information on plat.

In addition to what may be otherwise specified by law, the following information shall be shown on the plat:

1. The name of the subdivision as approved (Reference Section 2.020, Paragraph 1).
2. Date, northpoint and scale of drawing.
3. Reference points of existing surveys identified, related to the plat by distances and bearing, 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. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this ordinance.

4. The exact location and width of streets and easements intercepting the boundary of the tract.

5. Tract, block and lot boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings, and normal high water lines for any creek or other body of water. Tract boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.

6. The width of the portion of streets being dedicated and the width of existing right-of-way. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius, tangent, long chord and central angle shall be indicated.

7. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

8. Lot numbers beginning with the number "1" and numbered consecutively in each block.

9. Block numbers beginning with the number "1" 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 any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.

10. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots intended for sale.

11. Building setback lines, if any, are to be made a part of the subdivision restrictions.
12. Names and addresses of the owner, subdivider, surveyor and engineer.
13. The following certificates (which may be combined where appropriate):
 - A. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat.
 - B. A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants and servants.
 - C. A certificate with the seal of and signed by the engineer and/or surveyor responsible for the survey and plat preparation.
 - D. Other certifications now or hereafter required by law.
14. A space for the date and signatures of the Planning Commission Chairman, City Council, City Recorder, and County Surveyor.

section 3.030. supplemental information with plat.

The following data shall accompany the plat:

1. A preliminary title report issued by a Title Insurance Company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.
2. Sheets and drawings showing the following:
 - A. Traverse data including the coordinates of the boundary of the subdivision and ties to Section corners and Donation Land Claim corners, and showing the error of closure, if any.

- B. The computation of distances, angles and courses shown on the plat.
 - C. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing.
3. A copy of any deed restrictions applicable to the subdivision.
 4. A copy of any dedication requiring separate documents.
 5. A list of all taxes and assessments on the tract which have become a lien on the tract.
 6. A certificate by the City Engineer that the subdivider has complied with the requirements of Article VI and Article VII.

section 3.040. technical plat review.

1. Upon receipt by the City, the plat and other data shall be reviewed by the City Engineer who shall examine them to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plan and that there has been compliance with provisions of the law and of this ordinance.
2. The City Engineer may make such checks in the field as are desirable to verify that the map is sufficiently correct on the ground and his representatives may enter the property for this purpose.
3. If the City Engineer determines that full conformity has not been made, he shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions.

section 3.050. approval of the plat.

Upon receipt of the plat with the recommendation of the City Engineer, the Planning Commission shall determine whether the plat is in substantial conformance with the provisions of the tentative plan as approved. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made and shall afford him an opportunity to make corrections. If the Planning Commission determines that the plat conforms to all requirements it shall give its approval, provided supplemental documents and provisions for required improvements

are satisfactory. The Planning Commission shall send their recommendation forward to the City Council for their approval. When compliance with conditions has been assured, the plat shall be signed by a representative of the City. The approval of the plat does not constitute or effect an acceptance by the City for maintenance of any dedicated street or easement shown on the plat.

section 3.060. filing of plat.

A subdivider shall, without delay, submit the plat for signatures of other public officials required by law. Approval of the plat shall be null and void if the plat is not recorded within ninety (90) days after the date of the last required approving signature. After filing and approval of the plat by the County, the subdivider shall submit one (1) print and one (1) 3-mil Mylar to the City.

section 3.061. payment of taxes required.

No plat shall be recorded unless all ad valorem taxes and all special assessment fees or other charges required by law to be placed upon the tax roll, have been paid in accordance with ORS 92.095.

article IV
creation of streets outside a subdivision

section 4.010. creation of a public street outside a subdivision.

1. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivision except, however, the Planning Commission shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:

A. The establishment of the public street is initiated by the City Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.

B. The tract in which the street is to be dedicated is a partition within an isolated ownership either of not over one (1) acre or of such size and

characteristics as to make it impossible to develop more than three (3) building sites.

2. In those cases where approval of a public street is to be given without full compliance with the regulations applicable to subdivisions, a copy of a preliminary plan and the proposed deed shall be submitted to the Planning Commission at least ten (10) days prior to the Planning Commission meeting at which consideration is desired. The plan, deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Article VII and Article VIII of these regulations, shall be approved with conditions necessary to preserve these standards.

section 4.020. creation of a private street.

A street which is created in order to allow the partitioning of land of the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street in a subdivision or as provided in Section 4.010 of these regulations except that a private street which is not in full compliance with these regulations may be approved under the Planned Development provisions of the Zoning Ordinance.

**article v.
land partitioning**

section 5.010. general requirements.

Whenever acreage tracts or parcels are to be partitioned, the following procedures shall apply:

1. The creation of one to three lots for the purpose of transfer of ownership or building development requires a Partition Map to be filed with the City.

section 5.015. application procedure.

Application for a Land Partition requires a completed application form and a suitable preliminary plan to be submitted twenty (20) days prior to the Planning Commission meeting at which consideration of the plan is desired. The preliminary plan shall be drawn to scale on paper which is 8 1/2 inches by 11 inches, 11 inches by 14 inches, or 11 inches by 17 inches in size and shall include the following information:

1. The date, northpoint, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
2. The name and address of the record owner and of the person who prepared the preliminary plan.
3. The approximate acreage of the land under single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.
4. The locations, names and width of existing streets; location and size of sewer lines, water lines, culverts and drainage ways or other underground utilities within the tract to be partitioned or immediately adjacent; and the location of power poles.
5. An outline and location of existing buildings to remain in place.
6. Parcel layout, including a plan of the proposed partitioning, showing lot dimensions and the relationship to existing streets and utility easements.
7. The location, widths, and names of all proposed streets and rights-of-way to be dedicated.
8. Such additional information as required by the Planning Commission.

section 5.020. approval of preliminary plan.

1. Before approving a preliminary plan for a Land Partition, the Planning Commission shall hold a Public Hearing thereon. Notice of time and place of hearing shall be given in accordance with Section 9.040 of Zoning Ordinance No. 508. At the conclusion of the hearing, the Planning Commission may approve, disapprove, or modify the preliminary plan. The Planning Commission shall also have the power to continue the public hearing or to defer action on the preliminary plan to the next meeting date.
2. The Planning Commission shall review the preliminary plan for compliance with this ordinance, the Comprehensive Plan and the applicable zoning regulations of the City. The Planning Commission may require dedication of land and easements and may specify conditions or modifications in the preliminary plan as necessary to establish compliance. In no event, however, shall the Planning

Commission require greater conditions than would be required of a subdivision.

3. The action of the Planning Commission shall be noted on two copies of the preliminary plan, including reference to any attached documents describing conditions of approval. One copy shall be returned to the partitioner and one copy shall be retained by the City.

4. Approval of the preliminary plan shall not constitute acceptance of the final map for recording, however, approval of the preliminary plan shall be binding upon the City for the purpose of preparation of the map and the City may require only such changes in the map as are necessary for compliance with the terms of approval.

5. Appeal:

A. The action or ruling of the Planning Commission on a Land Partition may be appealed by an affected or aggrieved party to the City Council within fifteen (15) days after the Planning Commission has rendered its decision on the preliminary plan.

B. Written notice of the appeal shall be filed in accordance with Section 9.025 of this ordinance.

section 5.025. preparation of final map.

1. Within thirty (30) days after approval of the preliminary plan by the Planning Commission, the partitioner shall cause the property to be surveyed.

2. Within sixty (60) days after approval of the preliminary plan by the Planning Commission there shall be submitted to the City a Final Map prepared in conformance with the preliminary plan as approved. The partitioner shall submit the original map and one print along with any supplemental information to the City.

3. All maps and other writings made a part of such map offered for record shall be made in black India ink, upon material that is fifteen inches by eighteen inches (15"x 18") in size and is approved as suitable for binding and copying purposes (5 mil Mylar or similar material). The map shall be drawn to a scale of one inch equals fifty feet (1"=50'), one inch equals one hundred feet (1"=100'), one inch equals two hundred feet (1"=200'), or one inch equals four hundred feet (1"=400'). The lettering of approvals, and of the dedication and affidavit of the surveyor, shall be of such size or type as will be clearly legible, but no part shall

come nearer any edge of the sheet than one inch. All information on the map shall be enclosed by a black border. The information shown on the final map shall be as follows:

- A. Recorded reference of property (including Township, Range, Section) and description of each parcel partitioned.
- B. Northpoint; Title Block; Scale and Date.
- C. A plan of the proposed partitioning showing lot dimension (in feet and hundredths), bearings of all lines (in degrees and minutes) and area of each parcel.
- D. A tie by actual survey to a Section or Donation Land Claim corner. When partitioning is a re-division of all or part of an existing subdivision, a tie shall be given to either the initial point or a block corner of the original subdivision.
- E. A statement regarding contemplated water supply and sewage disposal for each lot.
- F. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a description of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the property shall be shown. If an easement is to be dedicated, it shall be accomplished by separate document (s) accompanying the partition map and referenced in the owners certificate of dedication.
- G. The location of existing permanent buildings, railroad rights-of-way, and other important features.
- H. The location, widths and names of existing and/or platted streets or other public ways within or adjacent to the property. If a street is to be dedicated with a Land Partition, it shall be accomplished by separate document(s) accompanying the partition map and referenced in the owners certificate of dedication. For streets on a curvature, curve data shall be shown on the map and shall be based on the street centerline. In addition to the centerline dimensions, the radius, tangent, long chord and central

angle shall be indicated.

I. A space for date and signatures of City Recorder and Planning Commission Chairman indicating approval of the map. A Land Partition which includes the creation of a street shall also include a space for date and signature of City Council approval.

J. A signature line indicating approval of map by the County Surveyor.

K. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the map.

L. Documents, signed and acknowledged as above, dedicating all land for public use.

M. A certificate with the seal of and signed by the surveyor responsible for the survey and final map.

N. Other certificates now or hereafter required by law.

O. A copy of any dedication requiring separate documents and a list of all taxes and assessments on the property which have become a lien on the property shall accompany the map.

SECTION 5.030. APPROVAL OF FINAL MAP.

1. Upon receipt of the final map by the City, the map and other data shall be reviewed by the City Engineer who shall examine them to determine that the final plan as shown is substantially the same as it appeared on the approved preliminary plan and that there has been compliance with provisions of the law and of this ordinance.

2. The City Engineer may make such checks in the field as are desirable to verify that the map is sufficiently correct on the ground and his representative may enter the property for this purpose.

3. If the City Engineer determines that full conformity has not been made, he shall advise the partitioner of the changes or additions that must be made and shall

afford the partitioner an opportunity to make the changes or additions.

4. The final map will then be forwarded to the Planning Commission with the recommendation of the City Engineer and, when compliance with conditions has been assured, the map shall be signed by the Planning Commission Chairman. All copies shall be marked with the date of approval. Approval of a Land Partition shall be considered final. Approval of a Land Partition which includes the creation of a street requires the map to be submitted to the City Council and shall be considered final when properly endorsed by the Mayor.

section 5.040. filing of map.

The City shall submit the Partition Map to Douglas County for recording. Any fees required by the County shall be paid by the partitioner. Following recording of the map, one print and one reproducible copy (3 mil mylar) shall be returned to the City.

article VI.
improvement guarantee

section 6.010. agreement for improvements.

Before the approval of the City is certified on the final subdivision plat or partition map, the land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing, if the work is not completed within the period specified, that the City may complete the work and recover the full cost and expense together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for reimbursement to the City for the cost of inspection by the City which shall not exceed ten percent (10%) of the cost of the improvements to be installed.

section 6.020. bond.

1. The land divider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

A. A surety bond executed by a surety company authorized to transact

business in the State of Oregon in a form approved by the City Attorney.

B. A personal bond co-signed by at least one (1) additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.

C. Currency or Certificate of Deposit to the City.

2. Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection.

3. If the land divider fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the land divider shall be liable to the City for the difference.

ARTICLE VII. DESIGN STANDARDS

section 7.010. principles of acceptability.

A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to the Comprehensive Plan and its implementing ordinances and shall conform to the design standards established by this ordinance.

section 7.020. streets.

1. General: 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 Land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried, considering the terrain. Where location is not shown in the

Comprehensive Plan, the arrangement of streets shall either:

- A. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- B. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

2. Minimum Right-of-way and Roadway Width: Unless otherwise indicated in the Comprehensive Plan, the street right-of-way and roadway widths shall not be less than the minimum width in feet shown in the following table, except:

- A. Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-way may be accepted, ordinarily not less than fifty (50) feet. If necessary, slope easements may be required.
- B. Where it is determined that two-level streets best serve lots in the Residential Hillside District (R-H), the right-of-way shall be of sufficient width to provide, on each level, space for one sidewalk and a minimum width of twenty feet for pavement, curbs and drainage facilities. Between the two street levels and out to the right-of-way lines there shall be space for all cut and fill slopes.

TABLE 7.02. MINIMUM STREET WIDTHS

Width	Type of Street Roadway Width	Right-of-Way
feet	Arterial 40-52 feet	80-120
feet	Collector Street 36-48 feet	60-80

	Minor Street:		
feet	- continuous minor street	34-36 feet	50-60
feet	- minor street less than 2,400 feet in length which cannot be extended	28 feet	50
feet	Radius for turn-around at end of cul-de-sacs	40 feet	50
feet	Alleys	20 feet	20

3. Reserve Strips: Reserve strips or plugs controlling 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 with the jurisdiction of the City under conditions approved by the City Council.

4. As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in T intersections shall, wherever practical, leave a minimum distance of two hundred feet (200') between the center lines of streets having approximately the same direction and, in no case, shall be less than one hundred feet (100').

5. Future Extensions of Streets: Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved without a turn-around. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

6. Intersection Angles: Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than eighty degrees (80°) unless there is a special intersection design. An arterial or collector street intersecting with another

street shall have at least one hundred feet (100') of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet (50') of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than eighty degrees (80°) or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of twenty feet (20') and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two streets at any one point will not be approved.

7. Existing Streets: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.

8. Cul-de-sac: A cul-de-sac shall be as short as possible and shall have a maximum length of four hundred feet (400') and serve building sites for not more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a circular turnaround.

9. Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City Council.

10. Grades and Curves: Grades shall not exceed six percent (6%) on arterials, ten percent (10%) on collector streets or twelve percent (12%) on other streets. Center line radii of curves shall not be less than three hundred feet (300') on major arterials, two hundred feet (200') on secondary arterials or one hundred feet (100') on other streets, and shall be to an even ten (10) feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the City Council may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 percent.

11. Streets Adjacent to Railroad Right-of-way: Wherever the proposed land division contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation

and to provide sufficient depth to allow screen planting along the railroad right-of-way.

12. Marginal Access Streets: Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

13. Alleys: Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than twelve feet (12').

section 7.030. blocks.

1. General: The length, width and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.

2. Size: No block shall be more than one thousand feet (1000') in length between corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is one thousand eight hundred feet (1800'). A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception.

3. Easements:

A. Utility Lines: Easements for sewers, water mains, electric lines or other public utilities shall be dedicated wherever necessary. The easements shall be at least twelve feet (12') wide, except for utility pole tieback easements, which may be reduced to six feet (6') in width.

B. Water Courses: If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses

may be required.

C. Paths and Bicycle Ways: When desirable for public convenience, a pedestrian or bicycle way may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block or otherwise provide appropriate circulation.

section 7.040. building sites.

1. Size and Shape: The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the residential lot size provisions of the Zoning Ordinance with the following exception:

Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and parking facilities required by the type of use and development contemplated.

2. Access: Except as set forth in Section 4.020, each lot and parcel shall abut upon a street other than an alley for a width of at least twenty-five feet (25').

3. Through Lots and Parcels: Through lots and parcels shall be avoided except along streets that have been designated as limited access or restricted access streets, or where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. If through lots or parcels are created, the rear setback area shall be increased to equal the required front setback area. Access to through lots or parcels shall be via the street frontage on the front side of the lot or parcel; there shall be no right of access to a street via the rear frontage. In approving the creation of through lots or parcels, the Planning Commission may impose additional conditions or restrictions as may be found necessary to preserve or protect the character of the area.

4. Lot and Parcel Side Lines: The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face except that on curved streets they shall be radial to the curve.

section 7.041. grading of building sites.

Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

1. Cut slopes shall not exceed two feet horizontally to one foot vertically.
2. Fill slopes shall not exceed two feet horizontally to one foot vertically.
3. The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

section 7.050. building lines.

If special building setback lines are to be established in a subdivision, they shall be shown on the subdivision plat, or, if temporary in nature, they shall be included in the deed restrictions.

section 7.060. large building sites.

In dividing tracts into large lots or parcels which, at some future time, are likely to be redivided, the Planning Commission may require that the blocks be of such size and shape so as to be suitable for redivision into building sites. They may contain such site restrictions as will provide for extension and opening of streets at intervals planned to permit a subsequent re-division of any tract into lots or parcels of smaller size.

section 7.070. land for public purposes.

If the City has an interest in acquiring a portion of a proposed subdivision for a public purpose or if the City has been advised of such interest by a school district or other public agency and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may:

1. Require that those portions of the subdivision be reserved for public acquisition for a period not to exceed one (1) year, at a cost not to exceed the value of the land prior to subdivision, or
2. The Planning Commission may require a parcel of land of not more than six percent (6%) of the gross area of the subdivision to be set aside and dedicated to the public by the subdivider for purposes to serve the area containing the subdivision.

section 7.080. special district - flood hazard area.

All land division in the floodplain shall conform to the requirements of the Special District/ Flood Hazard Area regulations contained in the Zoning Ordinance and shall provide for:

1. A minimum residential building site of 6000 square feet, exclusive of floodway.
2. Protection for streambank vegetation.
3. Open space dedication in accordance with the Greenway Proposal.

**article VIII.
improvements**

section 8.010. improvement procedures.

In addition to other requirements, improvements installed by a land divider either as a requirement of these regulations or at his own option shall conform to the requirements of this ordinance and the improvement standards and specifications followed by the City and shall be installed in accordance with the following procedure.

1. Improvement work shall not commence until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plan of a subdivision or partition.
2. Improvement work shall not commence until after the City is notified and, if work is discontinued for any reason, it shall not be resumed until after the City is notified.
3. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details, in the public interest, if unusual conditions arise during construction to warrant the change.
4. Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service

connections for underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.

5. A map showing public improvements "As Built" shall be filed with the City upon completion of the improvements. These shall be drawn using good quality black ink on a twenty-four inch by thirty-six inch (24"x36") sheet of approved material (3 mil mylar or similar reproducible material).

section 8.020. specifications for improvements.

The City Administrator shall cause to be prepared specifications to supplement the standards of this ordinance based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets.

section 8.030. improvements in subdivisions.

The following improvements shall be installed at the expense of the subdivider and at the time of subdivision.

1. Streets: Public streets, including alleys, within the subdivision and public streets adjacent but only partially within the subdivision shall be improved. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines.
2. Surface Drainage and Storm Sewer System: Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage ways or storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.
3. Sanitary Sewers: Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains. Design shall take into account the capacity and grade to allow for desirable extension beyond the subdivision. If required sewer facilities will, without further construction, directly

serve property outside the subdivision, the following arrangements will be made to equitably distribute the cost:

If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installations at the time, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing his share of the construction.

4. Water System: Water lines and fire hydrants serving each building site in the subdivision and connecting the subdivision to City mains shall be installed. The design shall take into account provisions for extension beyond the subdivision and to adequately grid the City system.

5. Sidewalks: Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision, except:

A. In the case of primary or secondary arterials, or special type industrial districts, the Planning Commission may approve a subdivision without sidewalks if alternative pedestrians routes are available.

B. In the case of streets serving residential areas or development under the Planned Development requirements where the requirement of sidewalks may not apply (provided there is no evidence of special pedestrian activity along the streets involved).

6. Bicycle Routes: If appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets and separate bicycle paths.

7. Street Name Signs: Street name signs shall be installed at all street intersections, the type and color as approved by the City.

8. Street Lights: Street lights shall be installed and shall be served from an underground source of supply.

9. Other: The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of

underground lines and facilities. Electrical lines and other wires, including, but not limited to, communication, street lighting and cable television, shall be placed underground.

section 8.040. Improvements in Partitions.

The same improvements shall be installed to serve each building site of a partition as is required of a subdivision. However, if the Planning Commission finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the Planning Commission may except those improvements. In lieu of excepting an improvement, the Planning Commission may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City.

SECTION 8.050 PROPERTY LINE ADJUSTMENT.

The common property line between adjoining lots or parcels may be adjusted in accordance with this Section without partition, platting or replatting procedures in ORS 92.180 and 92.185 or the vacation procedures in ORS 368. Once a lot or parcel line has been adjusted, the adjusted line shall be the property line. The City Administrator has authority to approve a property line adjustment when all of the requirements of this Section have been satisfied.

1. Application: An application for a property line adjustment shall be filed by the owners of all lots or parcels affected. The application shall contain the following information:

A. A brief statement explaining the reason for the adjustment.

B. A vicinity map identifying the lots or parcels to be effected by the property line adjustment.

C. A plot plan showing the existing property lines of the lots or parcels affected by the adjustment and the location of the proposed adjusted property line. The plot plan shall also show the location of all structures within twenty feet of the proposed adjusted property line.

2. Limitations and Exceptions:

A. A property line adjustment is permitted only where an additional unit of land is not created and where the lot or parcel reduced in size by the adjustment will comply with the standards of the applicable zoning district.

B. A property line adjustment is permitted only where existing or planned structures will not encroach within required setback areas as measured from the adjusted property line.

C. A property line adjustment is permitted only where the sale or transfer of ownership is made between adjacent owners within the same zoning district.

3. Preliminary Approval:

A. Within ten days of receiving a complete application, the City Administrator shall notify the applicant in writing whether the proposed property line adjustment conforms with the requirements of this Section.

4. Final Approval and Filing Requirements:

A. Within sixty days from the date of preliminary approval, the applicant shall submit a survey map which conforms with the requirements of Section 5.025 of this Ordinance, except that the final map shall indicate that it is for a property line adjustment which does not create a new lot or parcel.

B. Within ten days of receiving a complete survey map meeting the requirements of this Section, the City Administrator shall indicate final approval by signing the map and notifying the applicant in writing of the final approval.

C. The applicant shall submit the signed survey map to the Douglas County Surveyor, together with any required filing fee. When the map is filed, the County Surveyor shall indicate the filing information on the face of the map.

D. A property line adjustment shall be effective when the survey map is properly filed with the County Surveyor.

5. Exception For Adjustments of Even Width:

A. The survey and filing requirements of Subsection (4) above, shall not apply to a property line adjustment where the adjusted property line is a distance of even width along the entire common property line, or when the affected lots or parcels contain more than 10 acres before and after the adjustment.

6. Filing of Deed:

A. A deed of conveyance conforming to the approved property line adjustment shall be recorded with the Douglas County Clerk. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgments.

article ix.
exceptions, variances & enforcement

section 9.010. exceptions in case of a planned development.

The standards and requirements of these regulations may be modified by the Planning Commission in accordance with the Planned Development regulations of the Zoning Ordinance.

section 9.015. conditions for reduced pavement width.

A variance which allows the pavement width on minor streets in residential districts to be reduced to less than twenty-eight feet (28') may be approved by the Planning Commission under the following conditions:

1. The street is less than 2400 feet in length, cannot be extended, and serves local traffic only.
2. All abutting lots are of sufficient size and shape to provide the additional off-street parking that may be required as a condition of approval.
3. If the right-of-way is to be reduced accordingly, it shall be of sufficient width to provide space for sidewalks, curbs, drainage and utilities and the lot sizes within the parcel to be subdivided shall be increased in direct relation to the land area released from the right-of-way requirement.

4. On-street parking restrictions shall be imposed and additional off-street parking shall be required for each lot through the use of deed restrictions as follows:

A. Where on-street parking is to be allowed on one side of the street only, each unit shall provide three (3) off-street parking spaces.

B. Where no on-street parking is to be allowed, each unit shall provide four (4) off-street parking spaces.

C. In the case of "A" or "B" above, all required off-street parking spaces shall be set back a minimum of ten feet (10') from the front property line.

D. Multiple carports may be used to provide the required off-street parking. An area twelve feet in width and 20 feet in depth (12'x20') shall be considered one space. Each separately enclosed garage shall be considered to provide one parking space for the purpose of this exception.

E. Parking bays may be dedicated in lieu of the additional off-street parking required by paragraph "A" or "B" above when the total number of spaces provided is equal to two spaces per unit within the subdivision. This shall not exclude each unit from providing the two off-street spaces per unit otherwise required.

5. A petition for variance is applied for and approved as provided by Section 9.020 herein.

section 9.020. variance application.

The Planning Commission may authorize conditional variances to requirements of this ordinance. Application for a variance shall be made by a petition of the land divider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative plan. A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do

not apply generally to other properties in the same vicinity and result from tract size or shape, topography or other circumstances over which the owners of a property, since enactment of this ordinance, have had no control.

2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same vicinity possess.
3. The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
4. The variance requested is the minimum variance which would alleviate the hardship.
5. If the Planning Commission believes that a variance from requirements of the ordinance may be detrimental to a reasonable development and if the variance cannot be adequately supported by facts on the above circumstances, the Planning Commission may require the developer to proceed under the requirements for a Planned Development in the Myrtle Creek Zoning Ordinance.

section 9.025. appeal procedure.

An action or ruling of the Planning Commission pursuant to this ordinance may be appealed by an affected or aggrieved party to the City Council within a specified time period as set forth in Section 2.070 and Section 5.020. Written notice of appeal shall be filed with the City Recorder accompanied by a service charge established by the City of Myrtle Creek's Handbook of Fees and Charges. If the appeal is not filed within the time period stated, the decision of the Planning Commission shall be final and binding on all parties concerned. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. Notice and conduct of hearing shall be in accordance with Section 9.04.0 of Zoning Ordinance No. 508, however, the mailing of individual notice shall not be required.

section 9.030. severability.

The provisions of this ordinance are severable. If a section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

section 9.040. penalties for violation.

In addition to penalties provided by State law, a person who violates or fails to comply with a provision of this ordinance shall, upon conviction thereof, be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than one hundred (100) days, or both. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

section 9.050. AMENDMENTS.

Amendments to these regulations and notice of hearing thereon shall be in accordance with the procedures set forth in ORS 92.048.

section 9.060. repeal of conflicting ordinances.

Ordinance No. 327, adopted 3/12/68; Ordinance No. 352, adopted 6/9/70; Ordinance No. 368, adopted 9/14/71; Ordinance No. 411, adopted 5/21/75 and all ordinances or parts of ordinances in conflict with this ordinance, or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 15TH DAY OF JANUARY, 1980.

RECORD OF AMENDMENTS

<u>ORDINANCE NO.</u>	<u>DATE ENACTED</u>
572	July 19, 1988
609	November 19, 1991

ARTICLE IV
SUPPLEMENTAL DISTRICT REGULATIONS

SECTION 4.01.0 APPLICATION OF REGULATIONS.

The regulations set by this Ordinance within Article III (related to use, yard size, lot area, etc) apply to specific districts, whereas, the regulations of this article apply to all districts, unless otherwise specified. These supplemental regulations specify the standards applicable to authorization of similar uses, accessory uses, fences, signs, off-street parking and loading.

SECTION 4.02.0 AUTHORIZATION OF SIMILAR USES.

A use not specifically listed within the District Regulations may be permitted in a particular zone if the use is similar to and not more objectionable to the general welfare than uses authorized in the same zone or district. In determining whether or not a use is similar, it shall be judged that the use is in keeping with the purpose, intent and objective of the particular district, however, in no case shall these regulations be construed to permit a use in a district which is specifically listed in another zone or which is of the same general type, and is similar to, a use specifically listed in another zone.

SECTION 4.03.0 ACCESSORY USES AND STRUCTURES.

Uses and structures customarily accessory to those uses permitted within the various districts shall be permitted and shall comply with all requirements for the principal use except as modified by the "Limitations and Exceptions" set forth herein.

SECTION 4.03.1 HOME OCCUPATIONS.

A home occupation, as defined in Article II, shall be a permitted accessory use in all residential districts provided the conditions of the following paragraphs are satisfied.

- (1) No sign is used other than a residential nameplate not over two square feet in area.
- (2) There is no display that will indicate from the exterior that the building is used in whole or in part for any purpose other than a dwelling.
- (3) The building retains the characteristics of a residence.
- (4) There is no outside storage of materials.
- (5) No non-family paid employees shall perform work or render services to clients upon the premises.
- (6) No dwelling shall be used as a headquarters for the assembly of employees for instruction, for assembly of employees to dispatch for work at other locations, or assembly of employees for other purposes.

- (7) All aspects of a home occupation shall be contained and conducted within a completely enclosed building which shall be the same structure as the principal residence or appropriate accessory building.
- (8) The aggregate of all space within any building devoted to one or more home occupations shall not exceed 500 square feet in floor area, except such space within or on a lot occupied by a multiple-family dwelling containing three or more units shall not exceed 100 square feet in floor area for any one dwelling unit.
- (9) Products made or sold shall be disposed of primarily by delivery from the premises to the homes or places of business of customers.
- (10) Customer and client contact shall be primarily by telephone, mail, or in their homes and places of business, except for those home occupations which, by their very nature, cannot otherwise be conducted except by occasional contact upon the premises.
- (11) Child care, as a home occupation, shall be limited to not more than five children under the age of 15 years on the premises at one time. Care provided to six or more children shall be considered a "Day Care Group Home" (see Section 4.03.2 below).

SECTION 4.03.2 DAY CARE FACILITIES.

"Day Care Facility" as defined in Article II, includes a family day care home and may be considered home occupation when the requirements of Section 4.03.1 are met. However, for the purposes of this Ordinance, a family day care home exceeds the limitations for a home occupation when care is provided for six or more children at one time and, in such case, shall be referred to as a "Day Care Group Home". "Day Care Center" refers to a non-residential facility licensed by the State of Oregon for day care purposes. "Day Care Group Homes" and "Day Care Centers" may be permitted (a) in all residential districts upon issuance of a Conditional Use Permit, and (b) in other districts where specifically listed, provided that:

- (1) A valid State Certificate of Approval issued by Children's Services Division is obtained for any day care facility where six or more children who are unrelated to the care giver are in care at any one time.
- (2) As a condition of approval, it may be stipulated that a Conditional Use Permit for a Day Care Group Home be reviewed annually as follows: Prior to the expiration date, the information regarding the requested use will be updated and reviewed by the City Administrator. If any substantial changes have occurred resulting in an increased impact on the neighborhood, or, if the City has received any justifiable complaints regarding the use, the applicant will be directed to the Planning Commission for re-determination after an advertised public hearing. Otherwise, the City Administrator shall renew the Conditional Use Permit.
- (3) An off-street location for temporary parking while transferring children to and from the vehicle is provided along with the off-street parking spaces that may be required.

- (4) Outdoor play areas are to be enclosed by a barrier that is a minimum of three feet in height.

SECTION 4.03.3 HOME INSTRUCTION CLASSES.

Home instruction classes which are not permitted outright through the provisions for a home occupation may be permitted conditionally where specified within the District Regulations provided that:

- (1) Instruction in music is limited to no more than two students on the premises at one time.
- (2) Instruction in crafts is limited to no more than six students on the premises at one time.
- (3) The conditions set forth in Paragraphs (1) through (9) of Section 4.03.1 are satisfied in addition to the permit criteria set forth in Article VII.

SECTION 4.03.4 STRUCTURES ACCESSORY TO RESIDENTIAL USES.

Permitted accessory structures to residential uses shall include garages and carports, guest houses, non-commercial workshops, tool, garbage and wood sheds, private tennis courts, non-commercial greenhouses or hothouses, private swimming pools, and other similar accessory structures subject to the following limitations and exceptions:

- (1) Setback Exception.
An accessory structure separated from the main building by more than ten feet may be located in the rear or side yard provided it is no closer than four feet to a property line except when regulated by Section 4.03.5 for pens, cages, stables and barns.
- (2) Maximum Size Structure.
An accessory structure shall not exceed one story in height (15 feet) and shall not contain more than 750 square feet of floor space or cover more than 25% of the lot area, whichever is smaller.
 - (a) Applications for recreational vehicle storage garages and similar accessory uses which exceed the square foot limit shall be processed as a Conditional Use.
 - (b) In accordance with the Uniform Building Code, detached accessory structures with a projected roof area of less than 120 square feet are exempt from building permit requirements but remain subject to setback requirements and other provisions of this Ordinance.
 - (c) A "pre-manufactured" structure larger than 250 square feet shall not be permitted as an accessory structure in residential zones unless it has been certified as meeting the same building code standards as a site built structure. A vehicle, including a travel trailer or mobile home, shall not be used as a storage shed, guest house or other accessory structure.

- (3) Pools To Be Enclosed.
Swimming pools; over three feet in depth (whether in-ground or above-ground) shall be securely enclosed by a fence, wall or solid hedge which is a minimum of four and one-half (4 ½) feet in height. All exterior gates shall be provided with self-closing hardware.
- (4) Required Yard Area.
Pools and courts (including but not limited to aprons, walls, and equipment rooms) shall not protrude into any required side or front yard.
- (5) Business Prohibited.
Private pools, tennis courts, and similar accessory recreational structures located in residential districts shall not be operated as a business or a private club. Such clubs or facilities are generally a primary use and are specifically regulated.

SECTION 4.03.5 AGRICULTURAL USES.

Notwithstanding provisions provided by the general laws and ordinances of the City of Myrtle Creek in regards to livestock or public nuisance, the following practices are permitted accessory uses:

- (1) Crops.
Gardens, orchards, and crop cultivation provided no sales area or retail business is operated on the premises in connection therewith except where such commercial use is specifically permitted in accordance with the District Regulations.
- (2) Livestock.
The raising and maintenance of poultry or livestock (excluding swine) provided no sales area or retail business is operated on the premises in connection therewith and, provided further, that all livestock shall be contained by appropriate fencing and any pens, cages, stables, or barns for maintenance of livestock or poultry or piles of manure, feed and bedding shall be located 25 feet from any street or residential lot line in order to minimize odor and nuisance problems.

SECTION 4.03.6 MANUFACTURING FOR RETAIL SALE ON THE PREMISES.

The custom manufacturing or production of items sold on the premises is permitted as an accessory use in all commercial districts provided the following conditions are satisfied:

- (1) The manufacturing, processing or compounding of products is clearly incidental and secondary to the retail business conducted on the premises.
- (2) The manufacturing, processing or compounding of products does not occupy more than 50% of the floor area of the building.
- (3) The manufacturing, processing or compounding of products is not objectionable to neighboring property due to noise, dust, odor, smoke, vibration or other similar uses.
- (4) No outside storage or on-site disposal of equipment, materials or industrial waste is involved.

SECTION 4.03.7 CARETAKER'S RESIDENCE.

One single-family residence for a caretaker, owner, operator, manager or and his immediate family is permitted as an attached or detached dwelling for any commercial or industrial use, kennel, or veterinary clinic, for purposes of security and protection of the principal use. The dimensional standards of the R-1 District shall be applicable to a caretaker's residence. Other applicable standards shall not differ from those imposed by this Ordinance on any other housing unit of the same type.

SECTION 4.03.8 LAND USES DECLARED TO BE NUISANCE.

The keeping of livestock and other uses permitted by this Ordinance shall be subject to the regulations adopted by the City relating to public nuisances, such as those uses creating unnecessary noise or affecting the public health. Upon determination that a nuisance exists, it shall be removed in accordance with the procedures for abatement contained in the Myrtle Creek "Nuisance Ordinance" or as may otherwise be provided. The following land uses are specifically declared to be a nuisance and potential hazard to the public health and safety:

- (1) Junk Vehicles.
Pursuant to City Ordinance 314, it shall be unlawful to park, store or leave any licensed or unlicensed motor of any kind for a period of time in excess of 72 hours which is in a rusted, wrecked, junked or partially dismantled or inoperative or abandoned condition, whether attended or not, upon any public or private property unless the said vehicle is enclosed within a building or unless it is in connection with a business property operated in the appropriate zoning district.
- (2) Vehicles Over 8' Width.
It shall be unlawful to park, store or leave any vehicle, including a mobile home, that is more than eight feet in width (not including mirrors, bunks or clearance lights) on a residential street or lot for more than 24 consecutive hours unless the storage of said vehicle is essential and directly associated with a permit authorized for the transport and placement of said vehicle.
- (3) Living In Vehicles.
Pursuant to City Ordinance 216, it shall be unlawful to use a travel trailer, camper, recreational vehicle or similar vehicle for living or sleeping purposes while parked on public or private property (including public streets) without a "Permit for Sleeping Purposes Only", unless said vehicle is legally parked in a park designed for such purpose.

SECTION 4.03.9 GARAGE/YARD SALES.

Garage sales are generally permitted as an accessory use, however, there are times when this privilege is abused by sales that are long-lasting and potentially permanent businesses that should properly locate in a commercial district. Therefore, garage sales as a permitted accessory use shall be regulated as follows:

- (1) Definition.

Garage sale is defined as a temporary sale of recycled household goods conducted in a garage, yard, patio or other accessory area of a residence.

- (2) Residential Zones.
Garage sales conducted for more than 8 consecutive days or more than 8 days in one calendar month or more than 60 days in one calendar year at the same address shall be defined as a commercial operation and shall not be permitted in residential zones.
- (3) Commercial Zones.
Garage sales defined as a commercial operation may be located in commercial zones subject to the district regulations and development standards set forth in this Ordinance for the applicable zoning district (such as customer parking and outside storage limitations).
- (4) Business License.
Garage sales defined as a commercial operation shall be required to pay the City Occupational Tax ("Business License").

SECTION 4.04.0 FENCES, WALLS AND HEDGES.

To verify compliance with this and other ordinances, a "Certificate of Plan Check" is required on fences and walls of a height between 30 and 72 inches, inclusively. Application for such shall be submitted to the City Planning and Engineering Department. There is no fee for a "Certificate of Plan Check".

SECTION 4.04.1 FENCE HEIGHT LIMITATION.

Notwithstanding the provision for "clear vision areas" set forth in Section 5.06.2, the height limitation for fences, walls and hedges shall be as follows:

- (1) Front Yard and Exterior Side Yard
A fence, wall, railing, or mature hedge erected, placed, or planted in or along the required front yard or the required exterior side yard shall:
 - (a) Not exceed a height of 30 inches above the ground level when of solid design. Solid design shall be defined as less than 50% open space (such as a solid board fence or brick/stone wall);
 - (b) Not exceed a height of 48 inches above the ground level when more than 50% open space is maintained (such as chain link, decorative iron or picket fences). A picket fence shall be considered of open design when pickets are no more than four inches in width and are separated by a space equal to the width of each picket. Adequate open areas for clear vision shall be maintained for fences allowed under this paragraph when the fence is located within eight feet of any adjacent driveway; and,
 - (c) Be allowed exception as set forth in Paragraph (3) of this Section.
- (2) Behind Front Yard.
A fence, wall, railing, or mature hedge located 20 feet from the front property line or behind the required front yard, whichever is less, shall not exceed a height of

six feet or 72 inches above the ground level except as allowed by Paragraph (3) of this Section.

(3) Exceptions.

- (a) The height limitations of this Section do not apply to fences required by State Law to surround and enclose school grounds, public grounds or other public reserve lands; and,
- (b) The City Administrator may authorize, where appropriate, the erection of fences, walls or hedges exceeding the applicable height limitations set forth in Paragraph (1) and (2) above, but not within the "vision clearance area", to enclose a patio, swimming pool, garden supply, tool compound, or similar living, recreational or storage area or facility and the fences and hedges enclosing it shall be considered as comprising an accessory use. The erection of fences exceeding 72 inches in height and certain walls are regulated by the Building Code and may require a Building Permit.

SECTION 4.04.2 HAZARDOUS MATERIALS PROHIBITED.

No fence, wall or hedge shall contain barbed wire, electrical current or charge of electricity, broken glass or similar hazardous materials or devices except where allowed under the following conditions:

(1) Electrically Charged Wire.

Livestock may be contained by electrically charged wire provided the electrically charged fence shall be setback one foot from, and enclosed by, a non-hazardous primary fence or barrier and provided further that fences containing electrical current shall be approved amperage and clearly identified by a warning sign. The property owner shall be responsible for observing safe fire protection practices by keeping the area around such electrically charged wire free of weeds and other flammable materials.

(2) Barbed Wire.

Livestock may be contained by barbed wire. Fences enclosing industrial storage areas may use barbed wire as long as such wire is located not less than six feet above grade.

SECTION 4.05.0 SIGNS.

The purpose of the following sections is to add sign requirements to the several zoning districts for the preservation of the character of the area; for the preservation of residential, commercial and industrial potential; for the preservation of the need for healthful, safe and convenient use of all lands; and for the conservation and promulgation of values and resources.

SECTION 4.05.1 SIGN CONTENT.

No sign advertising a business which is not conducted on the premises, or a commodity or service which is not the primary product, sale, or service on the premises, shall be allowed except as follows:

For the purpose of endorsing candidates or ballot measures, or advertising events of public interest (such as fairs, rodeos, or similar temporary activities), signs may be erected on a property provided such signs will be removed by the property owner within 15 days following cessation of the activity for which the sign was erected.

SECTION 4.05.2 DISTRICT REQUIREMENTS (SIGNS).

All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and maintained in safe condition. The sign area permitted by the following paragraphs shall be measured as defined in Article II.

(1) Residential Districts.

- (a) Advertising for home occupations is not permitted.
- (b) RH & R-1 Districts: One non-illuminated stationary sign of not more than two square feet pertaining to an activity on a property may be erected at a distance of 10 feet or more inside a lot line except as allowed by Paragraph (1)(d) of this Section.
- (c) R-2 & R-3 Districts: One non-illuminated stationary sign of not more than eight square feet pertaining to each activity on a property may be erected at a distance of 10 feet or more inside a lot line except as allowed by Paragraph (1)(d) of this Section.
- (d) Exception: Each use or structure permitted in a residential district through the Conditional Use provisions of this Ordinance or through the application of the Special District/Community Services overlay zone may erect one non-illuminated stationary sign of not more than 16 square feet to identify the facility on the premises provided the sign is a maximum height of three and one-half (3 ½) feet above grade, is erected at a distance of 10 feet or more inside a lot line, and is constructed of natural materials (i.e., wood, rock, etc.) and provided further that a drawing and plot plan for the sign shall be submitted as part of the Conditional Use Permit or Zone Change application.

(2) Commercial and Industrial Districts.

Electrically lighted signs of not more than 32 square feet are permitted as follows:

- (a) Each business activity shall be permitted one freestanding sign and one projecting wall, signs, graphic, supergraphic or auxiliary sign.
- (b) When a use takes pedestrian or vehicular access from more than one street or road, one additional sign shall be permitted for each additional road to which it has access.
- (c) Signs shall not be glaring nor located in such manner as to conflict with traffic control devices and illumination shall be restricted to the property on which the sign is located.

- (d) Except for time and temperature signs, no flashing, swinging, rotating, or otherwise moving signs shall be permitted.

SECTION 4.06.0 PARKING, STORAGE OR USE OF MAJOR RECREATIONAL EQUIPMENT.

- (1) Permit for Sleeping Purposes.
No travel trailer or other recreational vehicle may be used as a place of habitation on public or private property except for temporary purposes when a "Permit for Sleeping Purposes Only" has been issued by the City Recorder as provided by the general ordinances of the City or when the recreational vehicle is located within a park legally established for such purposes.

- (2) Parking.
No major recreational equipment shall be parked on any City street for a period exceeding 24 hours during loading or unloading except with a "Permit for Sleeping Purposes Only".
- (3) Definition.
For purposes of this Section, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and similar equipment, whether occupied or not.

SECTION 4.08.0 OFF-STREET PARKING AND LOADING.

At the time of the erection of any new building or other structure, or at the time of the enlargement in height or ground coverage or the intensification of the use of any existing building or other structure, the builder, owner, or other person at whose request the building, structure or improvement is made, shall provide parking, off-street vehicular parking spaces on or adjacent to the building premises to be used in connection with such building or other structure as set forth in Section 4.08.1 through 4.08.4.

SECTION 4.08.1 PARKING SPACE REQUIREMENTS.

- (1) Dwelling and Other Living Facilities.
- (a) Apartments as a secondary use:
One (1) space per bedroom.
 - (b) Dwelling, Single-family:
Two (2) spaces per dwelling unit.
 - (c) Dwelling, Multi-family:
Two (2) spaces per dwelling unit.
 - (d) Rooming and boarding House:
Four (4) spaces per five guest accommodations.
 - (e) Nursing home, convalescent home, and sanitarium:
One (1) space per two beds for patients.
- (2) Clubs and Institutions.
- (a) Clubs and associations:
One (1) per three persons to the maximum capacity of each public meeting and/or banquet room plus 50% of the spaces otherwise required for accessory uses (e.g., restaurants, lounges, etc).
 - (b) Hospital:
One (1) space per two beds plus one (1) space per staff doctor.
 - (c) Rehabilitation and correctional institution:
One (1) space per 10 beds for patients or inmates.

- (d) Community centers:
One (1) space per 250 square feet of gross floor area or one (1) space per four patrons to the maximum capacity, whichever is greater.
- (e) Mortuary or funeral home:
One (1) space per four seats or eight feet of bench length in the chapel, whichever is greater.
- (3) Commerce and Industry.
 - (a) Retail stores except as in Item (b):
One (1) space per 125 square feet of patron service area.
 - (b) Service or repair shops and retail stores handling exclusively bulky merchandise such as automobiles or furniture:
One (1) space per 500 square feet of gross floor area.
 - (c) Banks and business offices except medical and dental:
One (1) space per 400 square feet of gross floor area plus one (1) space per employee on the largest work shift.
 - (d) Medical and dental offices and clinics:
One (1) space per 150 square feet of gross floor area.
 - (e) Grocery or supermarket and convenience stores:
One (1) space per 100 square feet of patron area plus (1) space per 200 square feet of gross floor area of storage.
 - (f) Restaurants (standard sit-down), taverns, night clubs and lounges:
One (1) space per 100 square feet of gross floor area or one (1) space per three patron seats, whichever is greater.
 - (g) Restaurant (fast-food):
One (1) space per 50 square feet of gross floor area plus one (1) space per employee on the largest work shift.
 - (h) Motels, hotels and tourist courts:
One (1) space per guest room or suite, plus one (1) space per every three employees on the largest work shift.
 - (i) Automobile service station:
One (1) space per every 2000 square feet of lot area, but in any case not less than four (4) spaces.
 - (j) Mortuary or funeral home:
One (1) space per four seats or eight feet of bench length in the chapel, whichever is greater.
 - (k) Storage warehouse, wholesale; manufacturing; and freight terminals (air, rail and truck):
One (1) space per employee plus one (1) space per 700 square feet of patron area.

- (l) Business with fleet vehicles:
One (1) space per company vehicle normally left on the premises plus spaces otherwise required.
- (4) Commercial Amusement.
 - (a) Stadiums and race tracks:
One (1) space per four seats or eight feet of bench length for spectators, whichever is greater.
 - (b) Indoor arenas and theaters:
One (1) space per four seats or eight feet of bench length for spectators, whichever is greater.
 - (c) Bowling alley:
Five (5) spaces per lane plus one (1) per employee on the largest work shift.
 - (d) Dance halls and skating rinks:
One (1) space per 300 square feet of gross floor area.
 - (e) Golf driving range:
One (1) space per tee plus one (1) space per employee on the largest work shift.
 - (f) Amusement park:
One (1) space per 1000 square feet patron area.
- (5) Churches, Schools and Other Places of Public Assembly.
 - (a) Library:
One (1) space per 400 square feet of reading room plus (1) space for each two employees.
 - (b) Church:
One (1) space per four seats or eight feet of bench length in main auditorium or sanctuary, whichever is greater.
 - (c) College and commercial or trade school for adults:
One (1) space per five seats in classroom.
 - (d) Day care facility or nursery schools:
One (1) space per teacher/employee on the largest shift plus one (1) off-street loading space per six students.
 - (e) High schools:
One (1) space per classroom plus one (1) space per administrative employee plus (1) space for each six students or one (1) space per four seats or eight feet of bench length in the main auditorium, whichever is greater, provided that, if the requirements for the auditorium exceed the spaces otherwise required, the excess space may be provided in areas having other uses during regular school hours.
 - (f) Junior high, elementary and other children's schools:
One (1) space per each classroom plus one (1) space per each

administrative employee or one (1) space per four seats or eight feet of bench length in the auditorium or assembly room, whichever is greater, provided that, if the requirements for the auditorium exceed the spaces otherwise required, the excess may be provided in areas having other uses during regular school hours.

(6) Unspecified Uses.

Any use not specifically listed in this section shall have a parking space requirement determined by the Planning Commission. Such requirements shall be based on the parking space requirement for comparable uses listed in this Section.

SECTION 4.08.2 EXCEPTIONS FROM PARKING SPACE REQUIREMENTS.

(1) Joint Use.

Owners of two or more uses, structures or parcels of land may utilize jointly the same parking area when the hours of operation do not overlap providing satisfactory evidence is presented in the form of deeds, leases or contracts or other instruments securing full access to such parking area of all parties jointly using them.

(2) Downtown Core Area Exemption.

For the purpose of this Ordinance, the City of Myrtle Creek shall have a "Downtown Core Area" defined on the Official Zoning Map in which all uses except grocery and convenience stores shall be exempt from the off-street parking requirements of Section 4.08.0 and 4.08.1 provided that all off-street parking spaces existing at the passage of this Ordinance are retained. The "Downtown Core Area" shall be bounded on the west by Millsite Park and shall include all properties and buildings having frontage on streets within the following described area:

Both sides of Third Avenue from Millsite Park to Oak Street, the west side of Oak Street between Third Avenue and First Avenue, both sides of First Avenue from Oak Street to Millsite Park and the east side of South Main Avenue from First Avenue south for a distance of 200 feet.

(3) C-1 Parking Consideration.

Conversion to commercial usage of a residential structure existing on September 1, 1981 in the C-1 Zone (Central Business District) to certain retail, service or business usage shall be exempt from the specified parking space requirement of Section 4.08.1 provided that all of the following conditions exist:

- (a) The proposed use of the existing structure is of a type specified in Section 4.08.1, Paragraph (3), Subsections (a), (b), (c) or (d) only.
- (b) Structural changes shall not consist of an enlargement in height or ground coverage and shall be limited to reconditioning, rehabilitation and redecoration or alterations that may be required for compliance with the Change of Occupancy provisions of the Building Code.
- (c) One off-street parking space per employee and the necessary maneuvering room shall be provided on the premises in lieu of the applicable

requirement of Section 4.08.1, Paragraph (3), Subsections (a), (b), (c) or (d).

SECTION 4.08.3 OFF-STREET LOADING FACILITIES.

Sufficient off-street loading facilities will be provided at the time of construction or structural alteration of any business so as not to utilize any public right-of-way for loading or unloading purposes, as follows:

- (1) Loading Space Dimensions.
Every retail establishment, industrial, manufacturing, or public assembly use which requires deliveries or shipments shall provide an off-street loading space of not less than 10 feet in width by 25 feet in length and shall have an unobstructed height of 14 feet.
- (2) Maneuvering Room.
All parking areas which will jointly serve off-street parking and off-street loading shall provide curves and corner of sufficient radius to permit the safe maneuvering of oversized vehicles through the parking area.
- (3) Loading and Unloading.
At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public street while the truck or van is being loaded or unloaded.

SECTION 4.08.4 OFF-STREET PARKING DESIGN STANDARDS.

All parking and loading areas shall be developed and maintained as follows:

- (1) Location or Site.
Except for residential parking for four spaces or less, the required yard areas adjacent to a street shall not be used for parking or loading areas. All shall be physically separated from public streets or adjoining property by landscaped required yards, bumper rails or other effective and suitable barrier against unchanneled motor vehicles access or egress.
- (2) Parking Space Dimensions.
Each required parking space shall be of usable shape and accessible from a public street. The minimum stall and aisle dimensions shall be as set forth in Table 4.08 "Typical Parking Layout".

- (3) Access and Driveway Standards.

<u>Principal Use**</u>	<u>Driveway Widths*</u>	
	<u>Minimum Width</u>	<u>Maximum</u>
<u>Width</u>		
Single-family and two-family dwellings on a single lot	12 feet	20 feet
All other uses with less than ten parking spaces (one-way driveway)	12 feet	16 feet
(two-way driveway)	16 feet	28 feet

All other uses with ten or more parking spaces (one-way driveway)	12 feet	16 feet
(two-way driveway)	20 feet	32 feet

*As measured at the street right-of-way line.

** Width and design standards for approach roads providing access to large-scale commercial and multi-family residential developments shall be determined during the Site Plan Review process.

Groups of three or more parking spaces, except those in conjunction with single-family or two-family dwellings on a single lot, shall be served by a service drive or maneuvering aisle so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. In addition to the specific requirements of this Section, service drives and maneuvering aisles shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site.

Driveways shall be aligned with maneuvering aisles so as to facilitate safe and convenient ingress and egress.

Access grades shall not exceed fifteen percent and shall be graded to allow clearance to pass a standard American automobile eighteen feet in length.

Access driveways to loading and service areas, and to parking areas having ten or more spaces, shall be located such that the near edge of the driveway is not less than 25 feet from the intersection of a side street right-of-way line or the curb return, whichever is nearer.

Access driveways shall not be located closer than 5 feet to an interior side lot line as measured at the street right-of-way line, except that common access driveways to two adjacent properties may be provided at the common lot line when a common driveway agreement is executed.

Access driveways and approach roads to parking areas having ten or more spaces shall be clearly marked to indicate one-way or two-way access. Two-way driveways shall have a painted centerline which is at least two and one half inches in width and at least ten feet in length beginning at the interior edge of the sidewalk along the intersecting street; or, where sidewalks are not present, at a point five feet from the intersecting curb line; or, where neither sidewalks or curbs are present, at a point five feet from the edge of the intersecting paved street surface.

One-way driveways to parking areas having ten or more spaces shall not be closer than 20 feet to any other one-way driveway, nor closer than 35 feet to any two-way driveway. Two-way driveways to parking areas having ten or more spaces shall not be closer than 50 feet from any other two way driveway, nor closer than 35 feet from a one-way driveway.

(4) Maneuvering Room.

All parking areas, except residential parking for four spaces or less, shall provide for the turning and maneuvering of the required number of vehicles on the lot. Notwithstanding the provisions of Section 4.08.3, Paragraph (2), all curves and corners shall be of a minimum turning radius of 15 feet or of sufficient radius to permit the safe operation of the standard size automobile.

(5) Surfacing.

All areas used for standing and maneuvering of vehicles shall be paved with concrete or asphalt, or such other hard surface, approved by the Planning Commission, which is durable, dustless, and can be maintained adequately for all weather use. All paved surfaces shall be so drained as to avoid flow of water across sidewalks or other public rights-of-way or private property. Storm and ground water shall not be drained into any sanitary sewer.

(6) Bumper Guards/Wheel Barriers.

Bumper guards or wheel barriers shall be so installed that no portion of a vehicle will project onto public right-of-way or over adjoining property and will be required when parking heads into a building. The area behind the wheel barriers or bumper guards shall either be paved or covered with evergreen ground cover.

(7) Landscaping.

All sites, regardless of other landscaping requirements, shall provide a minimum of 5% of the total parking area in landscaping. The undeveloped portion of rights-of-way shall either be landscaped or paved, preferably landscaped. The landscaping shall include at least one five-gallon tree for every 10 parking spaces. The remainder of the landscaping may be composed of other plant and landscaping materials, provided rock or other non-planted landscaping material is used only in conjunction with planted materials. All landscaping shall be provided with adequate underground irrigation and shall be maintained and kept free of trash and debris.

(8) Screening, Signs and Lighting.

- (a) Parking areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by screening, controlling signs, lighting, and other similar disturbances.
- (b) Commercial or industrial parking areas shall be screened from adjacent residential districts by means of sight-obscuring screens or fences as described in Paragraphs (3) through (6) of Section 5.08.3, "Screening".

MINIMUM STALL AND AISLE DIMENSIONS

A	B	C	D	D	E	F			F	
						Non-interlocking				
Interlocking						One	Two		One	Two
One	Two				Way	Way		Way	Way	
						Way	Way			
	90°	9'	20'	25'	25'	9'	65'	65'		
	60°	3 9'	21'10"	18'4"	22'min	10'5"	62'	65'8"		57'5" 61'1"
	45°	9'	20'6"	12'8"	22'min	12'8"	53'8"	63'		47'3" 56'7"

TABLE 4.08 TYPICAL PARKING LAYOUT

Minimum turning radius 15 feet

Ten foot stall width required adjacent to fence, wall or property line.

Parking spaces shall be designed in such manner as to permit and encourage vehicles to enter and exit the site driving in a forward direction. Spaces requiring backing into the roadway will not be permitted except for residential parking for four spaces or less.

All parking spaces shall provide access drives, maneuvering room, surfacing, drainage, wheel barriers, landscaping, lighting and screening in accordance with the design standards of Section 4.08.

Myrtle Creek City Ordinance 508 Section 6

Land Use Variances

Amended May 15, 2003 – City Ord. 731

- Section 6.03.0 Variances**
- Section 6.03.1 Authorization to Grant or Deny Variances**
- Section 6.03.2 Variance Approval Criteria**
- Section 6.03.3 Variance Classification**
- Section 6.03.4 Criteria for Granting a Sign Variance**
- Section 6.03.5 Application for Major Variance and Minor Variance**
- Section 6.03.6 Public Hearing for a Variance**
- Section 6.03.7 Final Decision for a Major Variance**
- Section 6.03.8 Final Decision for a Minor Variance**
- Section 6.03.9 Final Decision for an Administrative Variance**
- Section 6.03.10 Application Procedure and Service Charge**
- Section 6.03.11 Time Limit on a Variance Approval**

Section 6.03.0 VARIANCES

A variance is an authorized relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where conditions exist which are peculiar to the property and which are not the result of the actions of the applicant. A variance shall be permitted, altered or denied as set forth in Section 6.03.1 through 6.03.4.

Section 6.03.1 Authorization to Grant or Deny Variances

A variance may be authorized only from the requirements for off-street parking and loading; building height; lot area; lot coverage; size of yards and open spaces. The authority to grant a variance does not include authority to approve a development that is designed, arranged, or intended for a use not otherwise permitted in the location. The Planning Commission may authorize a variance from a specified provision of this Ordinance upon finding that strict application would render the parcel incapable of reasonable economic use.

(1) Variances may be granted under the requirements of this Ordinance as follows when it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the Ordinance would cause an undue or unnecessary hardship:

(a) The Myrtle Creek Planning Commission may grant major variances, including variances that are part of a Subdivision, or a Partition Application. The Myrtle Creek Planning Commission may grant minor variances in conjunction with a Subdivision, Partition, or Property Line Adjustment that the City Planner, without reaching a decision on the application, has forwarded to the Myrtle Creek Planning Commission for review, or that has been appealed to the Myrtle Creek Planning Commission.

(b) The City Planner may not grant minor variances when they are part of a Historic Review, Subdivision, Partition, or Property Line Adjustment Application.

(c) Planning Commission review shall be in accordance with Sections 9.04.0 through 9.04.3.

(2) Variances to the requirements of the Special District/Flood Hazard Area shall be in accordance with Section 3.41.7.

(3) Minor variances may be requested to the building coverage, setbacks, projections into required yards and structure height development standards for permitted uses in the Residential Zoning Districts.

- (4) Minor variances may not be requested, nor approved, for lot area and lot width. Minor variances shall not be requested, nor shall they be approved, to the regulations in Commercial Zoning Districts.
- (5) Major and Minor Variances shall not be requested, nor shall they be approved, to allow a use of land that is not permitted in a zoning district.
- (6) The Planning Commission shall conduct a site review and, in granting a variance, may impose those conditions set forth in Section 5.01.2, which it finds necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the objectives and purposes of the Comprehensive Plan and other applicable policies of the City.

Section 6.03.2 Variance Approval Criteria

(A) The City may permit and authorize a variance from the requirements of this Ordinance only when there are practical difficulties in the application of the Ordinance. A Major Variance may only be granted by the Planning Commission; and, only after all of the following criteria are met. A Minor or Administrative Variance may be granted by the City Planner only after criteria (3) and (4) are met.

(1) A hardship is created by exceptional or extraordinary circumstance or condition that applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses. Circumstances of any hardship shall not be result from actions of the applicant, owner, or previous owner, or from personal circumstances or financial situation of the applicant or owner, or from regional economic conditions.

The variance is necessary for the preservation of a property right of the applicant or owner substantially the same as is possessed by owners of other property in the same zoning district or vicinity.

(2) The existing zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in

the vicinity or district.

(3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.

(4) The granting of the variance will not adversely affect the implementation of the Comprehensive Plan or Zoning Ordinance nor will it establish a use, which is not listed in the underlying zone; and shall not be injurious to property in the zoning district or vicinity in which the property is located.

(5) The variance is the minimum remedy necessary to alleviate the hardship.

Section 6.03.3 Variance Classification

(A) A Major Variance is a 50 percent or greater change in the applicable underlying zoning district standard or Ordinance requirement. A Major Variance must be found to comply with Section 6.03.2(A); and,

(1) A Major Variance must be approved at a public hearing before the Myrtle Creek Planning Commission, in accordance with City Ordinance 509.9.

(2) The application shall include information set forth in Section 9.02.0.

(B) A Minor Variance is a change in the applicable underlying zoning district standard or requirement not greater than 50 percent of the applicable underlying zoning district standard or Ordinance requirement. The City Planner is authorized to grant a Minor Variance in accordance with the following conditions:

(1) A Minor Variance must be approved at a public hearing except when all owners of record of property within 150 feet of the subject property grant their consent to the variance according to the procedures; and,

(2) The consent form to be presented to each owner must be provided by the City and include the current zoning, standards, and requirements for that being varied. The applicant must state the amount of relief requested and include a declaration by the owner that the granting of the variance shall not harm the value and livability of his property.

(C) An Administrative Variance is a change in the applicable underlying zoning district standard or requirement not greater than 25 percent of the applicable underlying zoning district standard or Ordinance requirement. The City Planner is authorized to grant an Administrative Variance in accordance with the following conditions:

(1) An Administrative Variance application must be accompanied by the written consent of the owner or owners of each lot adjoining and across any street from the subject property; and,

(2) The consent form to be presented to each owner must be provided by the City and include the applicable underlying zoning district standard or Ordinance requirement.

(3) The applicant must state the amount of relief requested and include a declaration by the owner that the granting of the variance shall not harm the value and livability of his property.

Section 6.03.4 Criteria for Granting a Sign Variance

No variance for a sign shall be granted by the Myrtle Creek Planning Commission. Signs not otherwise permitted shall be processed under Section 7.01.0, as a Conditional Use.

Section 6.03.5 Application for Major Variance and Minor Variance

(1) A request for a Major or Minor variance may be initiated by a property owner or the owner's authorized agent by filing an application with the City Planner. The applicant shall discuss the proposed major or minor variance and site plans with the City

Planner, and City Engineer if appropriate, in a pre-application conference prior to submitting an application.

(2) The application shall contain information consistent with Section 9.02.1.

(3) Application for a variance shall be filed with the City Planner, on the forms provided, at the time of application. The application shall be accompanied by the required fee.

Section 6.03.6 Public Hearing for a Variance

Before acting upon a request for a major or minor variance forwarded to the Myrtle Creek Planning Commission, the Commission shall consider the matter at a public hearing conducted in accordance with Sections 9.04.0 through 9.04.3.

Section 6.03.7 Final Decision for a Major Variance

(1) For a major variance application submitted concurrent with a Historic Review, Subdivision, Land Partition, or Property Line Adjustment application, the decision shall be incorporated into the Historic Review, Subdivision, Land Partition, or Property Line Adjustment decision. The decision shall be to approve, approve with conditions, or deny the request.

(2) The decision shall be written and at a minimum shall identify the property owner, applicant, the date of the decision, the decision and any time frame and conditions to which the decision is subject.

(3) The decision shall become final 12 calendar days after the date the notice of the decision is given. Appeal shall be in accordance with Section 9.05.0.

Section 6.03.8 Final Decision for a Minor Variance

(1) For a minor variance application submitted concurrent with a Historic Review, Subdivision, Land Partition, or Property Line Adjustment application, the

decision shall be incorporated into the Historic Review, Subdivision, Land Partition, or Property Line Adjustment decision. The decision shall be written and at a minimum shall identify the property owner, applicant, the date of the decision, the decision and any time frame and conditions to which the decision is subject. The decision shall be to approve, approve with conditions, or deny the request.

(2) The decision shall be made by the Myrtle Creek Planning Commission or the City Planner to approve, approve with conditions, or deny the request.

(3) The decision shall become final 12 calendar days after the date the notice of the decision is given. Appeal of a City Planner decision shall be de novo and in accordance with Section 9.05.0. All other appeal shall be consistent with Section 9.05.0.

Section 6.03.9 Final Decision for an Administrative Variance

(1) An administrative variance application shall not be submitted concurrent with a Historic Review, Subdivision, Land Partition, Conditional Use Permit, or Zone change request.

(2) Administrative Variance decisions shall be written and at a minimum shall identify the property owner, applicant, the date of the decision, the decision and any time frame and conditions to which the decision is subject.

(3) A final Administrative Variance decision shall be to approve, approve with conditions, or deny the request.

(4) The decision shall become final 12 calendar days after the date the notice of the decision is given. Appeal shall be de novo and in accordance with Section 9.05.0.

Section 6.03.10 Application Procedure and Service Charge

A request for a variance may be initiated by the property owner or his authorized agent by filing an application with the City upon forms prescribed for the purpose at least thirty days prior to the date of the hearing. The application shall include information set forth

in Section 9.02.0 and any drawings or materials essential to the understanding of the proposed use and its relationship to the surroundings. The application shall be accompanied by a service charge, which is nonrefundable and identified in the *City of Myrtle Creek Handbook of Fees and Charges*.

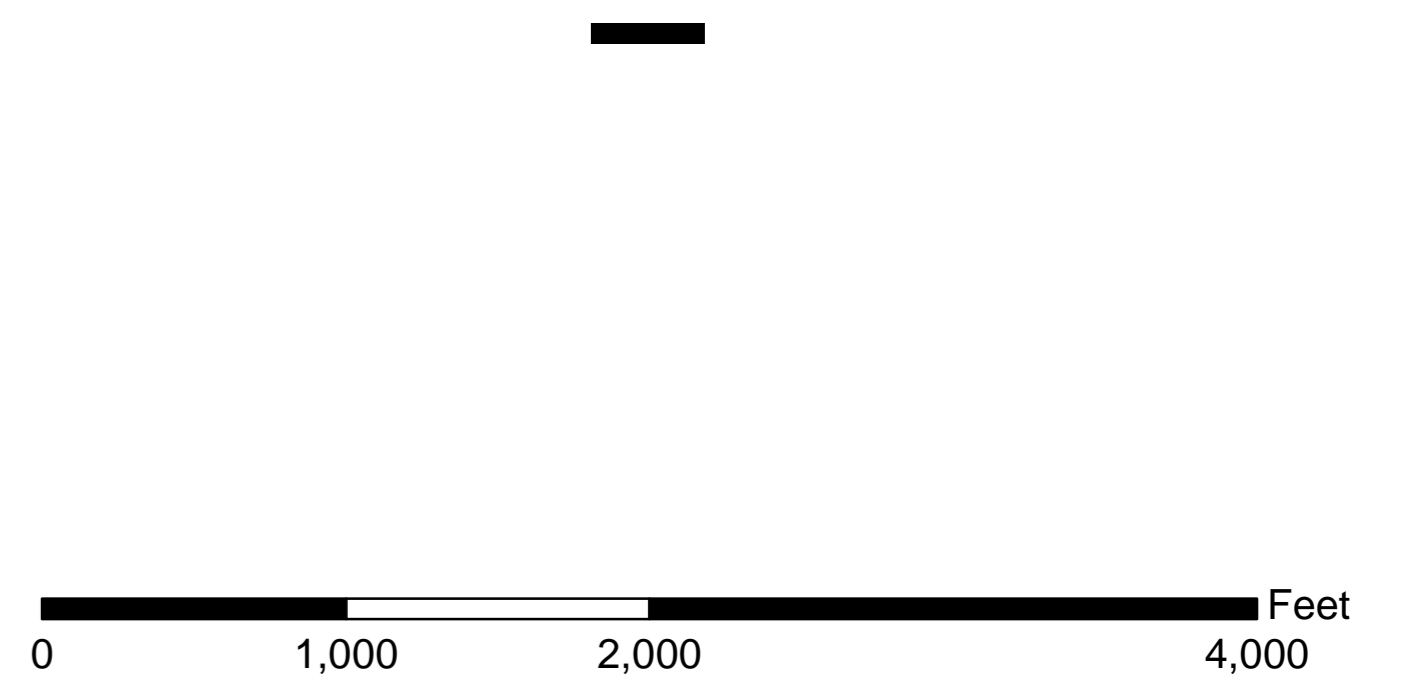
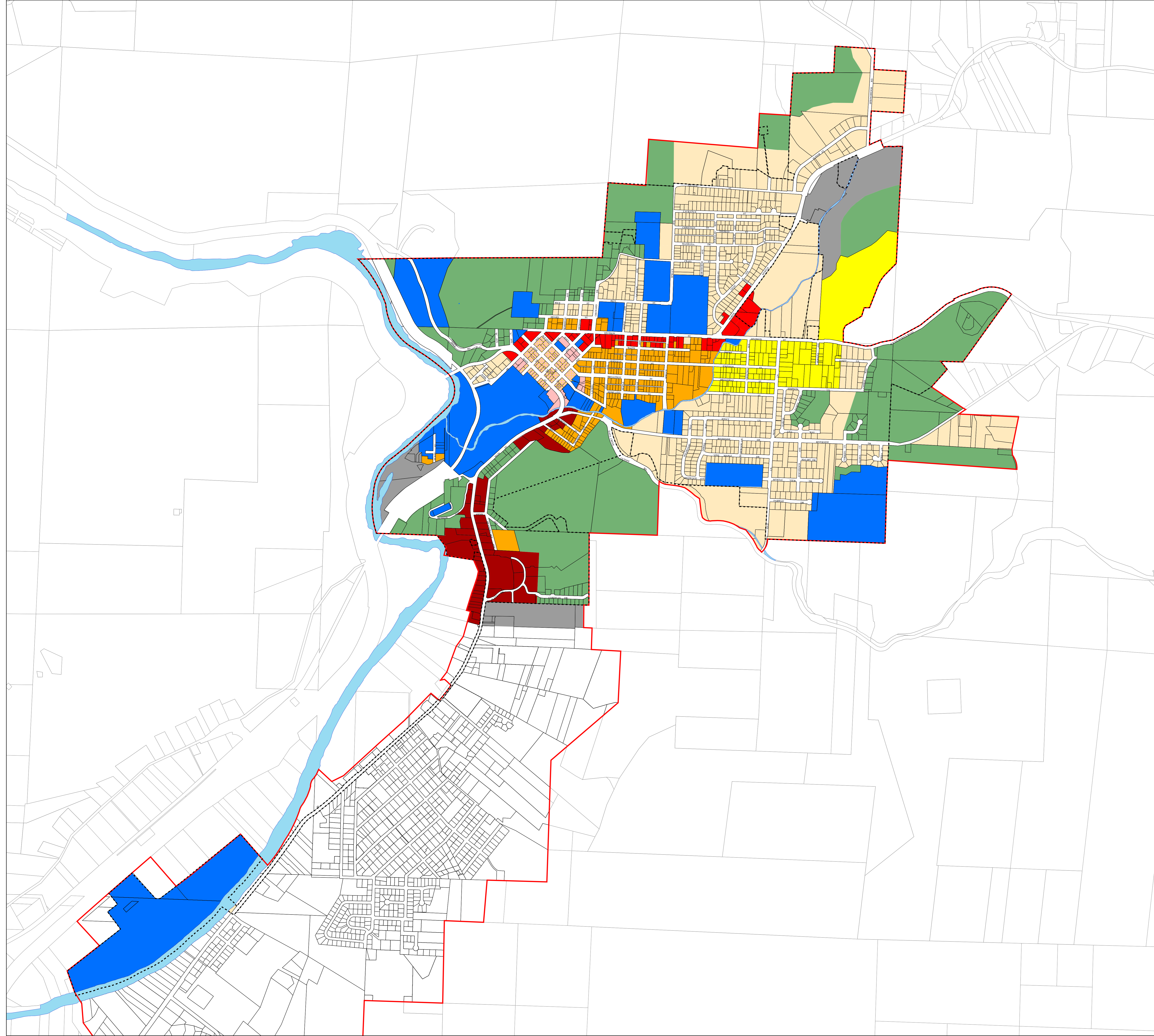
Section 6.03.11 Time Limit on a Variance Approval

Authorization of a variance shall be void after six months unless substantial construction pursuant thereto has taken place. However, the Planning Commission may, in its discretion extend authorization for an additional six months provided a written request from the applicant is submitted prior to the expiration date.

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Myrtle Creek Zoning



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